UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 09-50026(REG)

- -x

In the Matter of:

MOTORS LIQUIDATION COMPANY, et al.

f/k/a General Motors Corporation, et al.,

Debtors.

- -x

United States Bankruptcy Court

One Bowling Green

New York, New York

March 3, 2011

9:51 AM

B E F O R E:

HON. ROBERT E. GERBER

U.S. BANKRUPTCY JUDGE

HEARING re Confirmation

HEARING re Motion of Debtors for Entry of an Order Pursuant to Bankruptcy Rules 9006(b) and 9027 Enlarging the Time Within Which to File Notices of Removal of Related Proceedings

HEARING re Motion of Debtors for Entry of an Order Pursuant to 11 U.S.C. Section 365 Authorizing the Debtors to Assume and Assign Certain Contracts to the Environmental Response Trust Conditioned On and as of the Effective Date

Transcribed by: Aliza Chodoff

A P P E A R A N C E S :

WEIL GOTSHAL & MANGES LLP
Attorneys for the Debtors
767 Fifth Avenue
New York, NY 10153

BY: JOSEPH H. SMOLINSKY, ESQ.
STEPHEN KAROTKIN, ESQ.

WEIL GOTSHAL & MANGES LLP
Attorneys for Debtors
1300 Eye Street NW
Suite 900
Washington, DC 2005

BY: DAVID R. BERZ, ESQ.
THOMAS GOSLIN, ESQ. (TELEPHONICALLY)

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Attorneys for Creditor's Committee
1177 Avenue of Americas
New York, NY 10036

BY: THOMAS MOERS MAYER, ESQ.
ROBERT T. SCHMIDT, ESQ.

CAPLIN AND DRYSDALE
Attorneys for Official Committee of Unsecured
And Asbestos Creditors
One Thomas Circle NW
Suite 1100
Washington, DC 20005

BY: RONALD E. REINSEL, ESQ.
TREVOR W. SWETT, ESQ.

STUTZMAN BROMBERG ESSERMAN & PLIFKA PC
Attorneys for Future Representative
2323 Bryon Street
Suite 2200
Dallas, TX 75201

BY: SANDER L. ESSERMAN, ESQ.
JACOB L. NEWTON, ESQ. (TELEPHONICALLY)

GIBSON, DUNN & CRUTCHER
Attorneys for Wilmington Trust as Indenture Trustee
200 Park Avenue
New York, NY 10166

BY: MATT J. WILLIAMS, ESQ.

KELLEY, DRYE & WARREN LLP
Attorneys for Law Debenture Trust Company of New York
101 Park Avenue
New York, NY 10178

BY: DAVID E. RETTER, ESQ.

VEDDER PRICE
Attorneys for Export Development Canada
1633 Broadway
47th Floor
New York, NY 10019

BY: MICHAEL L. SCHEIN, ESQ.

U.S. DEPARTMENT OF JUSTICE
United States Attorney's Office
Southern District of New York
86 Chambers Street
New York, NY 10007

BY: NATALIE N. KUEHLER, AUSA
DAVID S. JONES, DEPUTY CHIEF, CIVIL DIVISION

HARRIS BEACH PLLC

Attorneys for ???

100 Wall Street

New York, NY 10005

BY: ERIC H. LINDENMAN, ESQ.

NEW YORK STATE DEPARTMENT OF LAW

Office of the Attorney General, Eric T. Schneiderman

Environmental Protection Bureau

The Capitol

Albany, NY 12224

BY: MAUREEN F. LEARY, AGAR

DEPARTMENT OF LAW
Attorneys for Onondaga County, New York
John H. Mulroy Civic Center
19th Floor
421 Montgomery Street
Syracuse, NY 13202

BY: LUIS A. MENDEZ, SENIOR ASSISTANT COUNTY ATTORNEY

MORGAN LEWIS & BOCKIUS LLP
Attorneys for JPMorgan Chase Bank, N.A.
101 Park Avenue
New York, NY 10178

BY: RICHARD S. TODER, ESQ.

GREENBERG TRAURIG, LLP

Attorneys for Certain Noteholders of General Motors Nova Scotia Finance Company

MetLife Building

200 Park Avenue

New York, NY 10166

BY: GARY D. TICOLL, ESQ.

BRUCE ZIRINSKY, ESQ.

CALIFORNIA DEPARTMENT OF JUSTICE

Attorney for California Department of Justice

300 S. Spring Street

Suite 1702

Los Angeles, CA

BY: OLIVIA KARLIN, ESQ. (TELEPHONICALLY)

KIRKLAND AND ELLIS, LLP
Attorneys for NUMMI
555 California Street
San Francisco, CA 94014

BY: MARK E. MCKANE, ESQ.

MORRISON FOERSTER, LLP
Attorneys for Citigroup Global Markets, Inc.
1290 Avenue of the Americas
New York, NY 10104

BY: JORDAN WISHNEW, ESQ.

AKIN GUMP STRAUSS HAUER & FELD, LLP
Attorneys for Green Hunt Wedlake
One Bryant Park
New York, NY 10036

BY: PHILIP C. DUBLIN, ESQ.
NATALIE LEVINE, ESQ.

U.S. DEPARTMENT OF JUSTICE
Office of the United States Trustee
33 Whitehall Street
21st Floor
New York, NY 10004

BY: BRIAN S. MASUMOTO, ESQ.

BUTZEL LONG, PC
Attorneys for GM Creditors' Committee
380 Madison Avenue
22nd Floor
New York, NY 10017

BY: BARRY SEIDEL, ESQ.

CADWALADER, WICKERSHAM & TAFT, LLP
Attorneys for U.S. Treasury
700 Sixth Street NW
Washington, DC 20001

BY: TIMOTHY T. BROWN, ESQ. (TELEPHONICALLY)

HANGLEY ARONCHICK SEGAL & PUDIN
Attorneys for NCR
One Logan Square
18th & Cherry Streets
27th Floor
Philadelphia, PA 19103

BY: MATTHEW A. HAMERMESH, ESQ. (TELEPHONICALLY)

ROPERS, MAJESKI, KOHN & BENTLEY
Attorneys for Remy International
20 Spear Street
Suite 1000
San Francisco, CA 94105

BY: KATHLEEN STRICKLAND, ESQ. (TELEPHONICALLY)

PRESENT TELEPHONICALLY:
Matthew M. Barnett, In Pro Per/Pro Se
George Brickfield, The Seaport Group
Robert Chambers, Akanthos Capital Management
Timothy Chen, Puma Capital

Leslee N. Cowan, In Pro Per/Pro Se

Ephraim Diamond, DK Partners

Michael Fabiano, GSO Capital Partners

Jordan Fisher, Pentwater Capital Management

Manish Garg, Halcyon Asset Management

Anthony Kim, DebtWire

Nate Oakes, Stone Lion Capital Partners

Dennis A. Prieto, Aurelius Capital Management, LP

Sarah Thompson, Barclays Capital, Inc.

Michael A. Trahan, Carlson Capital

Eric J. Werwie, EBF & Associates, LP

Michele Whalen, Morgens, Waterfall, Vintiadis & Co.

Patricia Wheeler, Godfrey & Kahn, S.C.

Shaun Wong, Credit Suisse

P R O C E E D I N G S

THE COURT: Good morning. Have seats, please.

Okay. We're here on confirmation in Motors Liquidation Company, General Motors. Of course, as you know I entered an administrative order to provide for orderly proceedings today, which I assume will be followed through on. I see Mr. Karotkin, Mr. Smolinsky, do you folks want to give me a recommendation as to how you would like to proceed?

MR. KAROTKIN: Good morning, Your Honor, Stephen Karotkin, Weil Gotshal and Manges for the Debtors. I think, as you indicated, there's been the order to which you just referred, Your Honor, that there would be three company's statements by people in favor of the plan to the extent they wanted to make them, and we would like to make a new statement.

And then I think that Mr. Jones and Ms. Kuehler from the United States Government after they make a brief statement, I'd like to address the environmental settlement trust and issues related to the people of those agreements, and then I think it would be appropriate again, subject to however you would like to proceed to address any objections that still remain.

THE COURT: That's agreeable Mr. Karotkin so do you want to start?

MR. KAROTKIN: Yes, if I could.

As Your Honor knows, and as you just indicated right

here, we're here to consider confirmation of the plan which is the culmination of the process, Your Honor, which as you well know began on June 1st, 2009 an encompassed the expeditious sale of the General Motors enterprise. The creation of New GM and its re-Establishment in the market as a competitive force, both internationally as well as domestically, GM's rebirth, Your Honor, its recent public offering, the growth of its market share as indicated in yesterday's newspaper, the revenues it's been generating and perhaps most importantly from the perspective of the people involved in this case and I'm sure, Your Honor, the continued employment of tens of thousands of people worldwide, and we think that's a testament to the value and flexibility of our bankruptcy system and the dedication of this court to the implementation of that process.

The final winding up of Old GM, which is now called Motors Liquidation Company, the hopeful confirmation and implementation of the plan that is before Your Honor today, in which, as I will detail shortly was overwhelmingly accepted by the two classes of creditors voting on the plan, assures, among other things Your Honor a fully funded remediation of GM's former manufacturing properties and significant distributions to general unsecured creditors, and brings to a close, we hope, of a very successful administration of these Chapter 11 cases.

I would like to say that on behalf of our firm and on behalf of the debtors, on behalf of AlixPartners we want to

thank Your Honor for all the time that you devoted to the 363 sale, the administration of these estates, particularly in view of all of the challenges involved at the outset of these cases and thereafter, and in view of your very busy schedule, and we thank you for your dedication of time to this effort and we are very grateful to the Court for that.

In connection with today's hearing Your Honor we have submitted the affidavit of Thomas Morrow in support of confirmation of the plan. We have also filed a memorandum of law which includes a response to the various objections that were filed, including a chart that summarizes those objections as well as our responses.

I would note Your Honor that solicitation of votes on the plan and notice of this hearing, the deadline to file objections to the plan, and notice of all of those matters were provided in accordance with this Court's order dated December 8, 2010 which approved the debtor's disclosure statement, and also approved solicitation and voting procedures as well as the manner and form of notice.

There are various affidavits of service and publication on file which demonstrate that the procedures for giving notice and for the solicitation process were done fully in compliance with your order and I believe the Court can take judicial notice of those affidavits.

Also on file with the Court are four certifications

of the voting agents with respect to voting on the plan. As Your Honor knows there were two voting agents; the Garden City Group which dealt with the Class V solicitation as well as the Class III solicitation to the extend it did not involve public debt securities, and by Epiq which was involved in the Class III solicitation and certification process with respect to the public debt.

As I'm sure Your Honor may recall only two classes of creditors were solicited for voting, that's Class III which is the class of general unsecured claims and Class V which is the Class of asbestos personal injury claims. All other classes are either unimpaired or not entitled to vote.

The only class that is impaired and not entitled to vote is the class of equity security holders which does not receive any property or consideration under the plan.

THE COURT: And therefore is deemed to reject.

MR. KAROTKIN: That is correct, sir.

I'm pleased to report that as set forth in the supplemental declaration of James Sullivan of Epiq, filed last night -- and I would point out Your Honor that that final certification was delayed by virtue of extended solicitation in Italy to make sure that sufficient time was granted to the Italian bondholders to get their votes in, and I'm happy to report your Honor that the plan, as I indicated earlier was overwhelming accepted by both classes, III and Class V and I

could just summarize the vote Your Honor from those certifications.

With respect to Class III, which is the general unsecured creditor class which consists of the bondholders as well, in terms of dollar amount accepting the number is $18,460,970,649.08 representing 85.6 percent of those voting. The amount rejecting is $3,106,806,154.16 representing 14.4 percent.

In terms of number accepting Your Honor 91,470 votes were cast in favor of the plan, and 3,042 votes were cast rejecting the plan. And in terms of percentages that is 96.78 percent accepting and 3.22 percent rejecting.

With respect to Class V Your Honor which is the asbestos personal injury claims, as provided in your order authorizing improving the solicitation procedures, because of the nature of the asbestos plans and the fact that they are essentially all unliquidated, the procedure was one dollar per vote. And the summary of the votes in that class are as follows, the dollar -- and they will be the same since the dollar and the number, since it's one dollar, are the same.

The dollar accepting are 17,027. The dollar rejecting is 386 dollars. The percentages are 97.78 percent accepting, 2.22 percent rejecting and those same numbers without dollars attributed to them are the same for the numbers voting. So again number accepting is 97.89 percent and number

rejecting is 2.22 percent.

So as I indicated you can see the plan was overwhelmingly accepted and satisfies the requirements of the statute and therefore the only class that is essentially being crammed down on is the equity class. And I think as we've demonstrated in our pleadings, with respect to the equity class we certainly satisfied the provisions of 1129(b).

Over the past several days Your Honor we have been working to address a number of the objections to the plan, as well as addressing certain modifications to the plan and suggested modifications that have been made, which I would characterize Your Honor as technical in nature in ways to clarify various issues that have been raised or to make sure the plan works in the way it is supposed to work.

This has included certain modifications to the exhibits to the plan, most particularly what we call GUC Trust Agreement. On February 25th Your Honor a revised version of the GUC Trust Agreement was filed with the Court, put on the website as well as a blacklined version and distributed to various parties for their review.

As to all, as to both the plan, the exhibits to the plan, we have them in Court today a blacklined versions of those documents from, in terms of the GUC Trust Agreement which was filed on February 25th, in terms of the plan, what was originally filed and went out in the solicitation package, and

we have furnished copies to your chambers for your review as well. And they are available here as I indicated this morning and people have had an opportunity to look at them.

I would submit to Your Honor and as indicated as well in the pleading filed by the creditors' committee on February 25th to which the GUC Trust Agreement was attached that these documents do not include any substantively economic changes to distributions under the plan. As I indicated they're basically clarification making sure the reserves work properly, making sure fractional shares work properly so that people are treated fairly particularly with respect to that issue, and I would submit Your Honor that the modifications to the plan and the exhibits to the plan do not adversely affect the treatment of the claim of any creditor who has not accepted the modification in writing, and therefore in accordance with Section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, we will be seeking confirmation of the plan as modified, and we will be filing Your Honor together with hopefully a proposed confirmation order a second amended plan which will reflect those modifications. Again that document is in the courthouse today.

I will point out that in connection with the modifications that have been done to all of these documents that has been a concerted effort engaged in, with the creditors' committee, the debtors, of course, the United States

Treasury and the other committees have been involved as well and it reflects a consensual presentation of where we are today.

With respect to the objections, there were thirteen objections filed to confirmation of the plan; six of these have been fully resolved, leaving only the following seven. The Town of Salina, Onondaga County, the State of New York, California Department of Toxic Substances, what are called the Nova Scotia noteholders, the Nova Scotia Trustee, and NUMMI.

As I said we have addressed --

THE COURT: And NUMMI is still on that list?

MR. KAROTKIN: My colleague Mr. Smolinsky says it may be off.

MR. SMOLINSKY: May be.

MR. KAROTKIN: He's responsible for NUMMI, Your Honor.

As I said, we have addressed these in our brief. We will be prepared to address these at the appropriate time. I understand the creditors' committee has a position on certain of these items as well, but before we get to that as I indicated to the extent that other parties in support of the plan who wish to make statements, I think that would be appropriate at this time unless Your Honor has any questions.

I know that Mr. Jones on behalf of the United States Government and Treasury would prefer to go last and then he can

get into, at that point, the environmental trust agreements and settlement agreements.

THE COURT: Okay. I'd like to hear next from the estate fiduciaries, starting with the creditors' committee. Mr. Mayer, good morning.

MR. MAYER: Good morning, Your Honor. I'd like to take this time to address only a subcategory of the objections because I think that's the most productive use of our time, and I want to start with the Nova Scotia bondholder objections. Probably the easiest way to track this is to turn to the objection filed by Appaloosa Management because it has a sort of checklist of objections and I would propose to briefly address each one because some of them, I hope, are off the table.

THE COURT: Give me a second then, please, Mr. Mayer.

MR. MAYER: Certainly.

(Pause)

MR. MAYER: Mr. Karotkin reminds me I'm supposed to make a general opening statement and it is not appropriate to take Your Honor through the actual objections in advance. I'm sorry. Some of these have been resolved Your Honor --

THE COURT: I didn't want to be rude. I think Mr. Karotkin got it right.

MR. MAYER: Yes, Your Honor, in that case I'll be --

THE COURT: What I would like to know at this point

is any overall comments the creditors' committee has, the asbestos committee has, the future claims rep, Government -- I don't know if the UAW and the Canadian authorities and the U.S. -- well the U.S. Trustee wouldn't have a position -- want to be heard in general terms, but what I'm trying to do now is kind of get my arms around where we stand in terms of support for the plan and then I'll deal with the technical objections and other objections that have been raised by the remaining objectors.

MR. MAYER: Thank you, Your Honor, I'll be very brief. The creditors' committee wholeheartedly supports the plan by a unanimous vote of its diverse membership, and on a general basis just as Mr. Karotkin paid tribute to certain people whose work went into this plan, I would like to do so too.

In particular the administration of this, this estate going forward will be committed to a GUC Trust, there will be GUC Trustee. The GUC Trust Agreement is a detailed and complex document that has been carefully shepherded, not just through the bankruptcy process which we hope will be a successful shepherding ending today, but also through the Securities and Exchange Commission and the Internal Revenue Service with respect to a no-action letter that we hope to receive from the SEC momentarily with respect to private letter ruling that we have asked for and expect to receive from the Internal Revenue

Service.

And in connection with those efforts Your Honor should know that the involvement of the future GUC Trustee was critical because that's the institution that's actually going to be signing the statements that are filed with the SEC and is going to be the institution is signing the tax returns, and you can't do that in a vacuum. And in that connection I would therefore like to pay tribute to the business people at Wilmington Trust and to their counsel who made a very material contribution to getting this quite complex document done.

And finally going back a couple of years, we stand here today as I said before as the custodian of the deal is cut by Paul Weiss and Houlihan Lokey a month before this case filed, and we view this plan as the successful preservation and consummation of that deal.

THE COURT: Pause just a minute, please, Mr. Mayer.

(Pause)

THE COURT: Proceed, please.

MR. MAYER: We view this plan as the consummation of that deal and I wanted to pay tribute to those who negotiated it and are not here in Court today, and we urge Your Honor to confirm the plan. Thank you.

THE COURT: Thank you. Mr. Reinsel and Mr. Swett. Mr. Reinsel, good morning.

MR. REINSEL: Good morning, Your Honor. For the

record, Ron Reinsel from Caplin and Drysdale on behalf of the official committee of unsecured creditors holding asbestos claims.

Your Honor, we will be as brief as possible. We late yesterday filed a statement in support of the plan. The asbestos committee does fully support the plan, it reflects extensive negotiations by the committee, the unsecured committee, the debtor assisted by the FCR. It has been overwhelmingly accepted by the present claimants and supported, I'm sure Mr. Esserman will confirm by the future claimants' representative. So, Your Honor, we urge confirmation.

THE COURT: Very well, thank you.

Mr. Esserman.

MR. ESSERMAN: Good morning, Your Honor, Sandy Esserman of Stutzman Bromberg Esserman & Plifka on behalf of the future representative. We do support the plan. We filed a brief in favor of the plan, it's obviously a product of arm's length and extensive negotiation among a lot of people.

As Your Honor knows we brought many disputes to Your Honor. We appreciate Your Honor's patience in resolving those disputes. Many disputes were resolved outside Your Honor's presence and outside the Court as Your Honor would expect the attorneys to do of the caliber that we have here and in this case. We have done so, the future's representative has been a participant extensively in the negotiations of the trust and

applicable provisions of the plan. We think it's a fair deal and we urge approval.

This is not something that one might have thought we would have said early on in the case or even middle or even late in the case but the parties worked very, very hard and that includes Mr. Karotkin and his crew, Mr. Mayer and his crew, Mr. Reinsel and others that are unnamed. So it really was a group effort here with very competing interests. I think that's an important factor that needs to be stated. Thank you.

THE COURT: All right. Thank you.

Anybody else want to be heard before I give the Government an opportunity?

MR. WILLIAMS: Just very quickly, Your Honor. Matthew Williams of Gibson, Dunn & Crutcher for Wilmington Trust as indenture trustee. As Your Honor knows Wilmington Trust is chair of the official committee of unsecured creditors and also is the proposed Guk administrator.

In our capacity as indenture trustee we think this is the best deal for our bondholders. We think that this plan is going to get out the largest distribution they can possibly get in the most expeditious timeframe practical, and for that reason we support confirmation of the plan.

THE COURT: Mr. Williams did I have a second indenture trustee? My memory is that you had about twenty-two or twenty-three million of the total of twenty-seven -- excuse

me, billion.

MR. WILLIAMS: Twenty-three billion. Yes, there are other indenture trustees as well Your Honor, Law Debenture is an indenture trustee. There are also some fiscal paying agents, I believe Law Debenture is in the courtroom as well.

THE COURT: All right. Does Law Debenture want to comment in any way?

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: Thank you.

MR. RITTER: Good morning, Your Honor. My name is David Retter of Kelley, Drye & Warren. We represent Law Debenture Trust Company of New York as indenture trustee for seven series of General Motors' bonds. The total principal amount is approximately 176 million. Law Debenture has been an active member of the creditors' committee ever since the inception of this case and we are very much in favor of the plan and we support the plan together with all of the other members of creditors' committee.

We want to use this opportunity as well to thank debtor's counsel, to thank Cream Eleven (ph) in particular, the counsel to our committee, Tom Mayer and all of his crew, all of whom did a wonderful job in shepherding this case through this court. Thank you very much.

THE COURT: All right. Thank you, Mr. Retter.

All right. Anybody else? Mr. Schein.

MR. SCHEIN: Good morning, Your Honor. Michael Schein, Vedder Price on behalf of Export Development Canada as the DIP, as one of the DIP lenders. We fully support the confirmation plan and most importantly want to thank Your Honor for all your efforts and time throughout this case.

THE COURT: Thank you.

MR. SCHEIN: Thank you.

THE COURT: Okay. Mr. Jones.

MR. JONES: Thank you, Your Honor, and may it please the court, David Jones from the U.S. Attorney's Office for the Southern District of New York for the United States. My colleague Natalie Kuehler has headed our office's efforts on environmental issues and as Mr. Karotkin explained she will address those plan provisions and state our request that they be approved under the environmental laws in a moment.

But first I wish briefly to state that the United States strongly supports prompt confirmation of the proposed plan of liquidation. The plan is overwhelmingly beneficial to the nation and to the creditor community. It honors the commitment that the United States made to fund the proper wind down of the Old GM's nonviable assets following the hugely successful launch of New GM through the 363 sale process.

It is also critical to the public interest that the plan be confirmed and become effective promptly so that creditors can be paid under the plan without further delay and

so that taxpayers of the United States can stop bearing the extraordinary and ever growing expense of running a complex, unresolved Chapter 11 proceeding.

In the United State's view the plan appropriately provides for the full wind down of debtor's affairs. I do wish briefly to comment on the DIP lenders' role, commitments and entitlements as this matter progresses through the rest of the wind down process. The DIP lenders and specifically U.S. Treasury have agreed to let MLC and the trusts use the DIP lender collateral to complete the work of the wind down of this estate subject to a budget. However, in exchange and as the documents in the case provide, the DIP lenders are keeping their liens on all of the collateral at the trust and at MLC.

And one thing I want to specifically note and is also made clear in the plan documents nothing being done today alters any parties' rights or contentions as specifically to entitlements to any proceeds of the term loan avoidance action which the court has heard about earlier in this case.

Finally to the extent assets remain following completion of the wind down, those assets under the plan will be returned to the DIP lenders. What I've given is an overview and a key component of the plan. The plan documents, as I've said make clear of what I've stated today and nothing I've said today is intended to modify or supplement those provisions at all, but we wanted to articulate at a general level on the

record today what the basis is of the DIP lenders' continuing consent to fund the wind down of the estate.

I acknowledge and join in the thanks of all counsel to the court and to all parties in interest and to the many people who, on the governmental side, including the Government's advisors who have helped to bring this case to this point. We are very satisfied and pleased to find ourselves on the brink of confirmation we hope and are very pleased we have achieved such a satisfactory resolution for all parties in interest.

At this time if the court has no questions, I will ask Ms. Kuehler to address the environmental issues that are so central to the claim before the court. Thank you.

THE COURT: Okay. Thank you.

Ms. Kuehler I'll hear from you, then I'll hear from any objectors on your environmental settlement.

MS. KUEHLER: Good morning, Your Honor, Natalie Kuehler from the U.S. Attorney's Office for the Southern District of New York on behalf of the United States.

As my colleague David Jones has stated, the United States strongly supports confirmation of the proposed plan and that plan is conditioned on and incorporates certain environmental settlements.

The first environmental settlement is what we call the Environmental Response Trust settlement. This settlement

covers eighty-nine sites in fourteen states. The second set of settlements are what we call the priority order site settlements. These are six separate settlements for non-owned properties.

The debtors will be seeking the court's approval of these settlements under bankruptcy law as part of their motion to approve the plan as a whole, and the United States is now also seeking the court's approval under the applicable environmental laws. Ultimately any ruling by the court confirming the plan will constitute a ruling approving the settlement agreements under both environmental and bankruptcy law.

Both the Environmental Response Trust settlement agreement and the priority order site settlement agreements were lodged with the court last year and the United States has taken public comments on those settlement agreements, and after reviewing those public comments has determined that the settlement agreements are fair, they are reasonable and they are consistent with environmental law.

In ruling on the Government's motion to approve the settlement agreements under environmental law the court conducts its own review of the settlement agreement's fairness. The court, however, should be deferential to the United States' determination that the settlement agreements ware in the public interest.

To reach the settlement agreements at issue here the United States, the debtors, fifteen states and a tribe conducted extensive negotiations over a period of over one year in which the parties were not only represented by experienced counsel but also by experts, and these experts were deeply involved in technical discussions at the site determining future remedial costs as well as the debtor's liability.

The settlement agreements that are now before the court are the result of these intensive arm's length negotiations and as mentioned just earlier and also in detail in the brief we submitted in approval of the settlement agreements, these agreements are fair, they're consistent with environmental law and public policy and they are in the public's interest.

I will just briefly summarize the essential terms of both settlement agreements now, and it's important to note that at the outset, at the very inception of this case as part of the budgeting process up to 536 million of the DIP loan proceeds were set aside and reserved specifically to address the debtor's priority environmental obligations.

Under the settlement agreements now before the court of those 536 million, 511 million will be placed in the Environmental Response Trust to fund the clean-up of the properties at issue in that settlement, and the remaining 25 million are allocated to the six separate priority order site

settlement agreements.

THE COURT: Did you say Ms. Kuehler that eighty-nine sites were covered under the ERT?

MS. KUEHLER: That's correct, Your Honor.

THE COURT: All right. Go on.

MS. KUEHLER: The Environmental Response Trust settlement agreement, those eighty-nine properties are all properties that are either currently owned by the debtors or were owned by the debtors at the time of the petition date and in some instances include adjacent properties that were contaminated by the debtors.

The priority order site settlement agreements in turn involve sites at which the debtors are essentially the sole potentially responsible party, and the debtors are subject to existent clean-up orders requiring them to remediate the sites.

As part of the United States' process for determining that the settlement agreements are in the public interest, the United States solicited public comments by lodging the settlement agreements with the court, publishing them in the Federal Register and in the case of the Environment Response Trust settlement agreement we also held a public meeting in Syracuse and in Onondaga County, New York where we solicited additional written and oral comments.

All the comments that we received and the transcript of that public meeting have been submitted to the court in our

papers and they have been addressed in those papers as well, so I'm not going to go into each of those in detail.

But I would like to discuss the underlying reasons for why the United States has determined that the settlement agreements are in the public interest.

In determining which of the many sites at which debtors have environmental obligations should receive funding from the available 536 million in DIP loan proceeds, the United States first identified those sites for which the strongest basis for priority treatment exists under bankruptcy law. And what I mean by that is that the debtors at those sites have direct fee enforceable injunctive obligations as opposed to the United States having mere claims for clean-up obligations.

Under the existing case law which this court in intimately familiar with --

THE COURT: Painfully familiar. I say that not because of the burdens on a court but because it is conceptually very difficult including some authority which we try to follow from the second circuit.

MS. KUEHLER: Yes, Your Honor.

THE COURT: Go on, please.

MS. KUEHLER: And under that authority the sites that have the strongest basis for priority treatment are those sites that are currently owned by the debtors or were owned by the debtors as of the petition date. And another very strong

similarly strong basis for priority treatment exists for those sites which are not owned but where there is ongoing pollution and the debtors are under an existing clean-up order requiring them to remediate and there are essentially no other viable peer piece that would conduct the clean-up in their place.

In addition to this the United States also looked to the environmental laws mandate to maximize the overall clean-up of contaminated sites and protect the public health and the environment. The sites that are addressed by the settlement agreements here would have no clean-up funding available from any source other than the debtors. As such, without the settlement agreements, the properties they address would either not be cleaned up or the clean-up costs would fall to be borne by the federal and state taxpayers with funds that then could not be used to clean up other sites.

The United States understands that the County of Onondaga which had filed an objection to the approval of the settlement agreements has or will be withdrawing that objection and the only remaining objection is that from the Town of Salina.

The Town of Salina is a PRP, potentially responsible party, at certain areas of the Onondaga Lake superfund site, and it essentially contends that those areas of the site where it has is a PRP should also be fully funded from the DIP loan proceeds.

It's important to note that the Town of Salina does not object to the general idea that there are sites that qualify for priority treatment. Rather it simply wants those sites where it is a PRP to be added to the group of sites that are receiving priority treatment, and this Your Honor is both self-serving and unjustified under the facts of this case.

Specifically the Town has requested that there be a priority treatment for the Lower Ley Creek and the Town of Salina landfill portions of the Onondaga Lake superfund site. Like so many other non-owned sites at which debtors have environmental liabilities both these portions, the Lower Ley Creek and Town of Salina landfill of the Onondaga superfund site involve numerous other PRPs, including the Town of Salina itself, the County of Onondaga but also a corporation such as Carrier, National Grid, Syracuse China, Cooper Crouse-Hinds and others.

In addition --

THE COURT: Pause, please, Ms. Kuehler. Did I understand you to say that the sites that Salina cares about are neither now owned by GM nor were they owned at the time GM filed this petition?

MS. KUEHLER: That's correct, Your Honor.

THE COURT: Continue, please.

MS. KUEHLER: In addition and this is another important point the debtors are not under any existing clean-up

orders requiring them to remediate at these sites. The clean-up order, there's one clean-up order the Town of Salina cited to and Your Honor that clean-up order directs the Town of Salina to conduct remedial actions, it does not involve Old GM or Motors Liquidation Company.

THE COURT: Have I been pronouncing the name of the town wrong all of this time?

MS. KUEHLER: We will have to ask the Town, I differ between Selena and Salina. I heard on Wednesday, I believe it was or Tuesday Salina so I'm sticking to that, I'm trying to stick to that.

THE COURT: That's what you get for just getting things by reading papers. Continue, please.

MS. KUEHLER: For these various reasons, including that the sites were not and are not owned by the debtors there are other viable PRPs at them and there are no current orders requiring the debtors to comply with clean-up obligations. There simply is no basis under the criteria set forth by the bankruptcy law or the policy furthered by the environmental laws of maximizing the protection of human health and the environment and the overall clean up of sites to add these sites into those sites receiving priority treatment from the 536 million in the DIP loan proceeds set aside to address priority environmental obligations of the debtors.

Nor, Your Honor, is there a basis in any law or logic

despite what the Town suggests in its reply that a Treasury's role as a DIP lender in this case makes the settlement agreements that were reached any less valid or the Town of Salina's demands any more reasonable. As mentioned before the settlement negotiations were extensive, involved numerous parties, including experts and conducted for a period of over one and a half years.

The Town of Salina, and I just want to mention this briefly, also mentions in its reply that it believes there are certain of the six non-owned sites that are receiving funding where there are PRPs other than MLC, and Your Honor the United States has conducted a review of those sites in the process of settlement negotiations and determined that there are in fact no other viable PRPs at these sites.

One of the PRPs identified by the Town of Salina is Chrysler which Your Honor knows has itself gone through bankruptcy proceedings. At other sites the PRPs that were identified are either a 72-year old farmer who has no assets to speak of or corporations, two of themselves in turn have also gone through bankruptcy proceedings.

I want to be very clear that the fact that the areas of the Onondaga Lake site, which the Town of Salina requests priority treatment for, are not addressed in the settlements currently before the court, does not mean that the United States is not pursuing the debtors for their environmental

obligations at those sites.

The United States and the debtors are engaged in intensive negotiations for the resolution of debtors' environmental liabilities at all of the sites that are not addressed by the settlement agreements currently before the court and is pursuing recovery for those remaining liabilities from other available assets of the estate including New GM stock.

And this brings me to another important point which is that the settlements at issue before the court do not only benefit the environment and the public at large but also here greatly benefit all of the parties in interest in this bankruptcy.

The 536 million in DIP loan proceeds that were set aside to cover the debtors' priority environmental obligations are not available for distribution under the plan to other creditors. That's because the DIP loan proceeds are not pre-existing or prepetition assets of the estate but rather funds that were provided by the DIP lenders after the debtors had already filed for bankruptcy to secure the orderly wind down of the estate, including the proper clean up of priority environmental obligations.

The settlement agreements therefore are in the interest of the debtors' estate as a whole and in particular of the general unsecured creditor community because they remove

536 million dollars worth of claims or obligations from the general unsecured claims pool that would otherwise need to be satisfied by New GM stock. This in turn means that the pro rata recovery of every general unsecured creditor is increased.

For these reasons and in light of the limited assets available in this case, the Government's funding decisions in the settlement agreement are reasonable, they are fair, and they should be upheld and the United States therefore requests that the court approve the settlement agreements under both bankruptcy and environmental law.

THE COURT: All right. Thank you.

Does the Town wish to be heard?

MR. LINDENMAN: Good morning, Your Honor. Eric Lindenman of Harris Beach for the Town of Salina, Selina (sic). I prefer to pronounce it as the Town. It's just a little easier. I think there's an upstate, downstate pronunciation issue.

THE COURT: But I thought you were upstate also.

MR. LINDENMAN: Well, Your Honor, I try not to go upstate all that often, I restrict it to New York, Long Island and New Jersey. Only when I have to visit the mother ship do I proceed north.

Your Honor, I'm operating under both a response to the United States as well as Your Honor's order limiting discussion and the parties who will be speaking with regard to

objections.

THE COURT: Can I assume Mr. Lindenman that you are going to be taking the lead on the issues that were at one time raised by Salina, Onondaga County and --

MR. LINDENMAN: New York State, Your Honor.

THE COURT: I don't know how many other environmental objections -- well I did have one at one point, but I take it you're principally the point guy at this point.

MR. LINDENMAN: Your Honor, I'm speaking now only because of the specific discussion of the Town's objection and the United States' presentation.

Ms. Leary from the New York State Attorney General will actually be handling the matter that Your Honor lists in the order as 2(a)(b)(d)(e) and (f). And if it's easier and I would defer to Ms. Leary if she'd rather discuss all of those issues and I'll come back after that, whatever either her or Your Honor prefers.

THE COURT: Well certainly on the wisdom of the Government's settlements I understood that you were the principal objector.

MR. LINDENMAN: Well Your Honor with regard to the ERT and the priority site agreements certainly we don't advocate upending it and do not request that Your Honor reject these deals if for no other reason than I would be stoned on my way out of here, and all of the money that would otherwise be

available pursuant to the trust and the priority site agreement would be gone and then the GUC holders would be dramatically increased and the numbers to be received by the unsecured creditors would be dramatically decreased.

So while I'm not advocating that it ultimately be rejected by Your Honor, I think it also a very valid purpose the concerns we have and I don't think the United States completely addresses it because I'm hearing really for the first time that in addition to what we have here in these two agreements, the United States is separately seeking to obtain additional recoveries from the debtor or other GM entities, throughout the GM assets, to remediate these sites, and that's news to us.

And perhaps if we had known about this, perhaps if we had been party to these negotiations for whatever length of time or if we had known about this when we had spoke with the debtor at length last night, perhaps I would not be raising any issue at this point, Your Honor.

We're sort of a little bit in the dark here with regard to exactly how this all happened because we weren't part of it. I can't speak to, I can't respond to the comments about the United States reviewing the other sites that we cite in our reply as having additional PRPs but nonetheless are in the ERT or on their priority site. We reviewed the EPA's website, this is what we found. I can't dispute or otherwise challenge what

the United States is saying so I will just leave it at that.

We're just hard pressed to understand why when the Inland Fisher site is receiving remediation and the Inland Fisher site is the site owned by GM that distributed the PCBs all throughout this area, into the lake, into the landfill, into the Lower Ley Creek, why there is an arbitrary cutoff outside the four corners of the property owned by GM. I don't think that CERCLA provides for that. I don't think that's what the intention is.

Really Your Honor there's not much else to address because we are not advocating that Your Honor reject these two agreements. We raised our concern, we don't think that we should be outside of that. We think we should be part of one of the other, either the ERT or the priority site agreement and the only other issue is that I would address is simply to support what my understanding is of Ms. Leary's presentation with regard to (f) on the order which deals with confirming that the Town is not subject to ADR procedures, that's our understanding from the debtor, so we no longer have that issue.

As well as (b) dealing with the concern that the Town may receive less in distribution than others who are paid prior or who have already been allowed as of the effective date. Our understanding from the debtor last night was that there will be no diminution in the value of what is received whether we are, since we are not currently allowed as of the effective date, if

we are allowed down the road that there will be no diminution of what our ultimate recovery is.

THE COURT: Forgive me, Mr. Lindenman, that is a general unsecured claim issue that was raised by a number of people including, by way of example, the Nova Scotia noteholders, if I'm not mistaken.

MR. LINDENMAN: Again, Your Honor, we've been advised by the debtor that it is not an issue. That there will be no diminution, so that's no longer an issue nor objection for us.

Really, Your Honor, that's the extent of it I don't want to run into what Ms. Leary has discussing, I don't want to be repetitive. That's our concern that we are not part of those two agreements and we still don't understand the rationale for it.

THE COURT: Okay. Thank you.

Ms. Leary, would you like to be heard?

MS. LEARY: Thank you. Salina, Your Honor.

THE COURT: Very well.

MS. LEARY: Salina. And I'm not even from upstate. I'm from New Jersey.

THE COURT: Well I'm from New Jersey as well but I thought people are allowed to call their towns whatever they want to call them.

MS. LEARY: Good morning, Your Honor, Maureen Leary on behalf the New York Attorney General's Office representing

the State of New York and the Department of Environmental Conservation.

Thank you for your February 24th order it really brought the parties, objecting parties together and we have conferred at length. I hope to be as comprehensive as possible, and I welcome the other parties on the phone who I am attempting to speak for, even though I cannot, to jump in afterwards in the event that, as Your Honor states, there is a unique issue or some material deficiency to my presentation which is quite possible.

I want to say first thank you to the court but I want to recognize the United States particularly because of the eighteen months that I've been able to observe a group of people under a huge amount of pressure representing the interests of Treasury as well as EPA, the Department of Interior and it's really just phenomenal what the Department of Justice and the U.S. Attorney's office in the Southern District has done. And they've had to put up with all of us so I just want to take this opportunity to tell you what an amazing job they've done and how much of a pleasure it is to work with them, and I think they serve their clients well, as well as the public interest and this court.

We are signatory on the Environmental Response Trust as this court may be aware and in that --

THE COURT: I must confess that that had caused me

some confusion because I had thought you had signed up to it and wouldn't have signed up unless you thought it was pretty good from a regulatory prospective.

MS. LEARY: Absolutely. It deals with two of New York's twenty-one sites, we fully support it and we fully support the plan conditionally. Our support of ERT is not conditional, however, we think that the court could approve it, you know, without further consideration. And the reason that we think it's an excellent result is because as Ms. Kuehler indicated a number of sites will be remediated around the country, two particular in New York that are highly contaminated and were previously owned by General Motors.

I do want to make clear that we have two hats here because of our signature on the ERT and our support for that, but we also stand in the Class III role as an unsecured claimant for another nineteen sites around the state, and of the two sites that are resolved in the ERT we are still an unsecured claimant as to prepetition response costs incurred at those sites.

Under the ERT we will be paid out post-petition costs but our prepetition costs are still in the Class III category. So we stand before you with sort of this double role here and what I'm going to address today are issues that I think can, to some degree, be resolved as part of the court's confirmation of the plan.

I want to just lay out a roadmap so if you don't want to go here Judge let me know now, we have raised issues with the State of California, Salina, that are similar but to some degree but slightly different so I can't pretend to speak for them. I can only speak for New York although we have conferred.

THE COURT: Let me help you with my confusion, Ms. Leary, and then you can help me.

I had thought that I heard from Ms. Kuehler vis-a-vis the two environmental trusts, the two settlements -- I suspect there are sub-settlements within the larger settlements but let me refer to it that way, and that I was called upon under federal environmental law, kind of like I was asked to do in Lyondell Chemical and Chemtura to make a finding not just that the settlements were appropriate from the perspective of the stakeholders in the Old GM estate, but also for the public interest. And that some of the concerns that have been voiced by the Town of Salina by you, by Nova Scotia noteholders and perhaps others dealt with concerns kind of that character in terms of whether I was satisfactorily protecting environmental Class III members, environmental unsecureds.

I thought our principal focus now is on what I might call the public interest perspective in terms of whether the federal government did a good enough job from its regulatory perspective. Do you -- you don't need to be diplomatic, do you

think I was not understanding these issues appropriately.

MS. LEARY: No, I'll be blatant they did a fantastic job from New York's perspective on serving the public interest here, and I attended the public meeting in Syracuse on a very snowy night, but the outreach that the United States undertook as well as the months and months and months of negotiation, there's no question in my mind that this is the best possible deal.

I mean the agony, I don't want to bore you with the details, but there is no question that ERT is in the public interest and while New York did not submit a brief as the United States did, because we were worried about our unsecured role, we could easily have supported the United States' position on the ERT being in the public interest as well as consistent.

I will say this, and this is really where the rubber hits the road, Your Honor, and I'm not talking about this case in particular, I'm talking about the issue that may have been in Lyondell as well as Chemtura, about this owned property/unowned property concept. From New York's perspective, and I'm not applying this to the ERT or otherwise, I want to raise to the court as a matter of law, CERCLA defines a facility for which a party has liability as wherever the contamination is. It doesn't stop at the property boundaries.

Having said that the issues in the bankruptcy context

are precisely as Ms. Kuehler represented, there is this -- I don't even want to use the term priority because it is a term of art in this court, but there is a overlay of how much the regulator has required at that property. What has, what is enforceable before this court and that's where Ms. Kuehler made clear, I think, that these sites being covered in the ERT were on the regulator's radar screen, they were subject to orders, they were owned by the debtor, there wasn't a big dispute about there's contamination we have to address it. Indeed General Motors was addressing in New York the contamination of both of those sites when they filed a petition in bankruptcy.

So there wasn't this sort of big dispute about, you know, big landfill site where you have 150 potentially responsible parties, GM being one of them. This is a little bit different, but this is sort of this --

THE COURT: Forgive me.

MS. LEARY: -- collision between the objectives of CERCLA, you know, saying go get it all and the objectives of the bankruptcy code pragmatic as they are and equitable as they are, addressing issues that are of a more priority nature, especially from the regulator's point of view.

So in short, just to answer your question, there's no question in my mind the ERT is absolutely in the public interest. I don't know what else I can show you other than the months and months of negotiation and the result of millions of

dollars of Treasury money being put into the states that otherwise would have to bear that burden. And New York is realizing 154 million dollars, that is a huge, huge benefit to our state right now.

So I can just speak for New York in that regard but I probably if they had the fiscal ability to be before this court, every signatory in the ERT would come before this court and say we are happy this is in the public interest. We did the best we could given the circumstances and complexity of this case, and the fact that Treasury is funding it obviously is an overlay.

So I don't think the court needs to look any further than that context to make a finding that the ERT is in the public interest.

THE COURT: Fair enough.

MS. LEARY: Thank you.

THE COURT: Thank you.

MS. LEARY: Can I move to the issues in your order or do you want me to, these are the straight objections.

THE COURT: My preference, Ms. Leary, not in the way of non-negotiable demand, I think, but my preference would be to get my arms around all of the public interest issues that were associated with the Government's threshold matter, and then to take a brief recess to be hopefully in a position where I could rule on whether the settlements past muster for 9019

law and federal public interest law points of view, and then have people deal with the more traditional 1129 issues thereafter, which I sense is most of all of what you would otherwise be talking out.

MS. LEARY: In that event, Your Honor, we respectfully request that the court approve the ERT as in the public interest, as consistent with 9019 as well as CERCLA.

THE COURT: Okay.

MS. LEARY: Thank you.

THE COURT: Does anybody else want to be heard a first time on ERT issues before I give the Government a chance to reply?

MR. MENDEZ: Yes, Your Honor.

THE COURT: Come on up, please.

Now forgive me, sir, because I think I have most of the parties accounted for in my mind and I don't recognize you, so I'm going to let you speak but I'm going to ask that you be telling me who you're acting for and to be non-duplicative in comments you wish to make.

MR. MENDEZ: Okay. Um --

THE COURT: Could you come to a microphone, please.

MR. MENDEZ: Thank you. Is that better, Your Honor?

THE COURT: Yes, thank you.

MR. MENDEZ: It's senior deputy county attorney Luis A. Mendez for Onondaga County. And as I believe was indicated

earlier Onondaga County after Tuesday's appearance we entered into discussions with counsel for the debtor, and based on those discussions we have arrived at a resolution of our objections. If counsel for the debtor would advise me so that I don't inadvertently misquote the full extent of what that resolution is --

THE COURT: Mr. Smolinsky.

MR. SMOLINSKY: Your Honor, Joseph Smolinsky, Weil, Gotshal, Manges for the debtors. We've been in discussions with the County and there is a general understanding. We informed Mr. Mendez that as part of the hundred million dollars plus that we discussed two days ago that will be set aside under the EPA's claim relating to the entire Onondaga, Onondaga County site, that in excess of 70 million dollars of that money is set aside for the lower lay portion of that site. And I think with that understanding, Onondaga County was comfortable.

THE COURT: Mr. Mendez, you may comment, if you wish.

MR. MENDEZ: Yes. That was our understanding. The only other matter is a purely administrative matter and our client, because of our official statement and other disclosure obligations, we will need to document that somehow. It's our understanding that that money is going to go into a much larger pot, that there is not going to be a specific entry made. However, we would ask that as soon as the transcript is available, that we could obtain this portion of the transcript

to -- in order to satisfy our auditors of the basis upon which this objection was resolved.

THE COURT: Well, I think that as part of my powers as a judge, I can order the debtors to give you the transcript. And I just want to be sure that Mr. Smolinsky is on the same page as you, vis-à-vis the substantive aspect.

MR. SMOLINSKY: Yes, Your Honor. I just want to make clear that what we're talking about is claims that will be part of the general reserve, and specifically tied to this site, and that we'll get the treatment for those claims when they're finally reconciled and allowed pursuant to the terms of the plan of Class III.

MR. MENDEZ: That is our understanding as well, Your Honor.

THE COURT: All right. Very good, Mr. Mendez, thank you.

MR. MENDEZ: You're very welcome.

THE COURT: Okay. And I understand now, of course, when I didn't recognize Mr. Mendez, because he'd appeared previously by telephone.

Okay. Anybody else want to be heard a first time before I give Ms. Kuehler an opportunity to respond? Mr. Karotkin?

MR. KAROTKIN: Yes, Your Honor, just quickly. As set forth in our memorandum of law, we believe the standards under

9019 have been satisfied with respect to the settlements.

THE COURT: Sure. I never understood that anybody understood that the debtor was giving away the store, as I read the objections. They were concerning as to whether or not the federal government and/or state governments had done their jobs.

Ms. Kuehler, do you want to reply in any way?

MS. KUEHLER: Your Honor, only if you have any questions for me. Otherwise, I will rest.

THE COURT: I have no questions. We're going to take a brief, hopefully brief recess, relatively brief. I'd like you back here, folks, at ten after 11:00, at which time I will hopefully be able to rule on the threshold issues.

We're in recess until 11:10.

(Recessed at 10:54 a.m.; reconvened at 11:16 a.m.)

THE COURT: Ladies and gentlemen, I'm approving the motions for approval of the ERT and priority order site settlement agreements from both 9019 and regulatory perspectives. And I'm making express findings as mixed questions of fact and law that the settlements are in the best interests of the Old GM estate and that they are fair, reasonable, in the public interest and consistent with federal law, from the perspective of the federal and state regulatory interests that those agreements are also intended to advance.

I have a very full courtroom with I don't know how

many meters running. And I don't think it's appropriate to make so many people listen to a very lengthy ruling, establishing all of the case law underpinnings for this determination.

If the Government wants to, it can give me more extensive findings of fact and conclusions of law, although my recommendation would be that a very simple order be prepared to say that for the reasons set forth on the record, both the settlements are approved from both perspectives.

If anybody wants to appeal, I will upon request, flesh out my conclusions more.

The approval of the settlement from the estate's perspective under traditional 9019 and Tmt Trailer criteria is not in dispute. There are no objections on that ground, and it's plainly well within that range of reasonableness.

I did get, of course, the objection from the Town of Salina, and originally before it was withdrawn, Onondaga County, and I'll speak briefly to those.

The function of the Court in reviewing a motion like this one is not to substitute its judgment for that of the parties. Rather, it's to confirm that the terms of the proposed environmental settlement agreement are fair and adequate and are not unlawful, unreasonable, or against public policy. See U.S. versus Hooker Chemical, 540 F.Supp. 1067 at page 1072.

My job is to confirm that the settlement agreements are consistent with CERCLA's goals. And in conducting that review, I should be deferential to the government's determination that the settlement's in the public interest. See U.S. versus Akzo Coatings, 949 F2d 1409 at page 1426.

As Mr. Mendez confirmed, Onondaga County's objections have now been resolved. I still have objections from the Town of Salina, not so much because of any substantive objections it has with respect to what was agreed upon, but rather by reason of what wasn't included as part of that settlement. By reason of the agreement's failures to also include additional favorable treatment for other areas, and dealing with those not by giving up those claims, but by providing that they would get unsecured claims treatment.

Salina objects to the agreements because some remedial needs are addressed by cash funding for clean-up of properties, while not providing cash funding, and reserving only general unsecured treatment for other areas affiliated with the Onondaga site, such as Lower Ley Creek, the Salina landfill, Old Ley Creek Channel and the lake bottom.

As the Government properly observes, those claims are getting meaningful distributions, but of course, it's obvious that they're not getting cash, and they're not getting paid in one hundred cent dollars. And it's understandable that anybody, especially a PRP, who might have to write out a larger

check because somebody else isn't picking up the tab would be disappointed with that. And I hardly fault the Town of Salina for being disappointed, and indeed, for filing the objection, but ultimately the issue is whether the government acted reasonably and was acting in the public interest, which as I've noted, I find that it did.

Given the limited funding available in this Chapter 11 case, the settlements appropriately prioritize clean-ups. They take into account overlapping principles of federal bankruptcy law and federal environmental law. Factors that are relevant to those determinations include whether properties are owned by the debtors, whether clean-up orders had been issued, and whether there are other PRPs who the government can legitimately expect to be able to write out a check, all of which inform the discretion of the government in getting the best deal it can for the public and for the taxpayers.

Unfortunately, because of limited resources available and the need to prioritize, the agreement can't be expanded to include clean-up funding for other areas affiliated with the Onondaga County sites, just as it can't be expanded to include clean-up for other environmental matters of concern elsewhere in the country for which the debtors have liability, but where no clean-up orders have been issued, and the federal and state governments with their regulatory needs and concerns can't look to other PRPs.

The Government has explained that the sites that were funded by these agreements were selected based on two criteria. First, given the limited funding available in this Chapter 11 case, and the fact that when the government comes in looking to get either future environmental compliance or the money for meeting obligations of that character, applicable bankruptcy law has to provide the strongest basis for obtaining funding for the clean-up from the debtors for the covered properties.

Second, again because of the limited available cash funding, the federal EPA had to further prioritize the debtor's environmental liabilities by limiting funding to the sites where there weren't other people to look to, or where there -- or where, excuse me, if there were other people to look to, those people had resources by which they could meet those obligations.

As many of you know, the interface between federal bankruptcy law and federal environmental law is complex. And as I noted in colloquy by Ms. Kuehler, the law that we judges follow in the bankruptcy courts and in the district courts is not always as clear as it might be.

Under the law as it's developed, at least in the 2nd Circuit, the strongest right of recovery under bankruptcy law for environmental clean-up is for sites that are actually owned. With respect to those, the regulatory authorities, the EPA in particular, can require debtors to perform clean-up

obligations, because debtors have to manage their property that they still own in accordance with applicable non-bankruptcy law, which of course, includes environmental regulations, and environmental statutes. See 28 USC Section 959.

And as you know, the debtors can't obtain confirmation of their plan without appropriate provision for property of the estate that complies with applicable law.

Similarly, a stronger case for priority can be made for non-owned sites where, in addition, clean-up orders have been issued. But when the regulatory authorities can't do that, that doesn't mean they don't have claims, but they have unsecured claims, which is what the government entities negotiated for themselves here.

It's hardly unreasonable for them to take considerations of that character into account when structuring a deal. It also makes sense for them to structure their deals, to prioritize limited funds to apply them to the sites with the highest likelihood of not being cleaned up by some other means or by other people.

It was at least reasonable for the U.S. government to arrange settlements under which less than all of the sites that might be relevant would be bankrolled with a hundred cent dollars.

The non-covered areas in the Onondaga region can't be said to satisfy the criteria that I just articulated. They

weren't owned by the debtors, the debtors didn't have injunctive clean-up orders that they had to comply with, and the debtors weren't the sole viable PRPs. That provides a very sensible basis for the government's decision to structure the deal as it did.

I find that the criteria applied by the U.S. government in entering into the agreement were eminently reasonable. It was also reasonable for the government to take into account the risks that departing from the criteria that I articulated would've made the settlement vulnerable to objection under bankruptcy law. They would've delayed presentation of a confirmable plan, they would've delayed getting the money in to procure all of these needs, which we all agree need to be addressed; and none of that is in the public interest.

Thus, I find that the Government's regulatory efforts were fully reasonable and in the public interest, and they're approved.

Ms. Kuehler, you and your colleagues may if you wish provide for more extensive papering of my decision, but that summarizes the reasons for it.

Shall we go right now into the substantive objections to confirmation, what I'll call the 1129 objections? And I think for this purpose that I need to hear from objectors having hopefully complied with my order to coordinate. Any

preliminary observations, Mr. Karotkin or Mr. Smolinsky, before we proceed?

MR. SMOLINSKY: Your Honor, if you'd like, I could walk through the withdrawn and resolved matters before we get to the objections.

THE COURT: I think that might be helpful, let's do that.

MR. SMOLINSKY: Joe Smolinsky, Your Honor. I just wanted to mention from the outset that in addition to the thirteen objections that Mr. Karotkin referred to, as Your Honor is aware, there have been numerous letters that have been sent to the Court throughout these Chapter 11 cases by individuals who have rightfully expressed the harm that's come to them as a result of the GM bankruptcy, as is the case in all bankruptcies.

We've reviewed all those letters. We don't believe that those letters give rise to substantive plan objections within the confines of what's required to confirm the plan, but we did want to raise that because we don't want to be dismissive of those individuals' interests.

Your Honor, let me just first walk through the withdrawn matters first.

The Microheat objection was withdrawn. We had a mediation a couple of days ago with Microheat. And as a result, our claims against Microheat and Microheat's claims

against us were resolved, and that caused Microheat to withdraw their objection.

NCR, as Your Honor may be aware, NCR has a pending adversary proceeding raising constructive trust issues against the debtor. We've discussed the -- their issues with them, and I think they're comfortable that they're not being prejudiced as a result of confirmation in their adversary proceeding.

Center Point Associates, they have a ground lease with the debtors. We advised them after they filed their objection that their ground lease is being assumed and assigned over to the ERT, the Environmental Response Trust, pursuant to confirmation and pursuant to the motion that's going to be before Your Honor after confirmation. And with that, they've agreed to withdraw their objection.

Finally, Your Honor, Allstate Insurance Company or it might be referred to as Northbrook, we have worked out some insurance neutrality language with them that you'll see in the confirmation order, and with the addition of that language, they've withdrawn their objection.

Moving on, there have been a couple of resolutions, or at least agreements that may, in some case will, resolve objections. The JPMorgan objection has been resolved; Mr. Toder's two and a half issues. Let me just give Your Honor a brief summary of what those resolutions are.

We have added some language to the confirmation order

that makes clear that the pendency of the term loan avoidance action won't affect individual term loan lenders' rights to receive distributions on account of unrelated claims that they might have against the debtors. And that language has been agreed to among all the parties.

THE COURT: Was there, Mr. Smolinsky, because that issue comes across in other places. I thought what the plan provides is that if your claim is objected to, you don't get distribution on that claim, but if you happen to have claims that are different or, in essence, you're coincidentally a claimant in different capacities, it doesn't go to those other capacities. Did I misunderstand the plan?

MR. SMOLINSKY: I think that's the standard, Your Honor, and we added language that specifically addresses that now.

THE COURT: And that says that in baby talk? That clarifies?

MR. SMOLINSKY: Yes. We hope baby talk, Your Honor.

THE COURT: Okay. Go on.

MR. SMOLINSKY: The second agreement is to make clear that under the plan, Motors Liquidation Company will continue in existence for a period of time, not later than the end of December of 2011. And under the plan, that will be the entity that resolves and satisfies all secured priority and administrative expense claims.

JPMorgan was looking for a clarification that after MLC dissolves, that that role will be taken over by the GUC Trust, and that, in fact, is the case, and we will confirm on the record that that's the case, so that the GUC Trust will effectively assume the obligation to satisfy any administrative expense claims that JPMorgan as trustee may have in the case.

We have been paying JPMorgan's fees throughout this case, and we will continue to do that, to the extent that the debtors believe that those fees are reasonable, under the terms of the DIP order.

The last clarification, I guess this is the half, is that the million and a half dollars that's budgeted in the GUC Trust for the payment of JPMorgan's defense fees, there's not a cap on their administrative expense claims. That's the amount that was negotiated with the U.S. Treasury, but it's not a cap on the allowed amount on the administrative expense claim. The plan does provide that all administrative expense claims, to the extent they're allowed, are paid in full.

And with that clarification, I believe that we are done addressing JPMorgan's issues.

THE COURT: Mr. Toder, do you have any problems with what he said?

MR. TODER: Absolutely no problems with what was said, Your Honor. There is one other minor change we made to paragraph 55 of the confirmation order, making clear that the

term loan agreement, as between the bank, the bank lenders, and the lenders and the agent remains in effect, it's just can't be reached with the debtors.

MR. SMOLINSKY: That's a nit, Your Honor, 2.6 issues.

MR. TODER: But I've fulfilled my commitment to the Court. I want that noted. I did not speak for anywhere close to five minutes.

THE COURT: Okay. Fair enough.

MR. JONES: Your Honor, may I --

THE COURT: Mr. Jones.

MR. JONES: Thank you, Your Honor.

Your Honor, I just quickly want to note that I've been advised the DIP lenders haven't fully signed off on the wording included in the current evolved confirmation order draft in one respect regarding the resolution with JPMorgan just described. We'll talk to them upon conclusion of the hearing, and hopefully resolve it. It's a narrow wording issue, but I don't want to fail to say that there is one concern that apparently has not been fully signed off on by the DIP lenders on this one point.

MR. TODER: Would it make sense for us to step outside so that we don't slow things down and have the discussion --

THE COURT: Well, if you can button it up in the next couple of hours, that would be helpful, but I'm not sure if I

want to ask Mr. Jones to leave a hearing of this importance, on an issue of that character --

MR. JONES: Your Honor --

THE COURT: -- especially.

MR. JONES: Your Honor, if I can suggest, I appreciate that, I would like to stay here, but suggest that Mr. Toder speak with separate counsel for Treasury who's present. They can go out and hope to reach resolution and then we'll be set.

MR. TODER: That's fine.

THE COURT: That's fine with me. I was surprised that this much lawyering on an issue of this character was required, but if you want to go out and go in the hall, go ahead and do it. I just don't want Mr. Jones pulled out of this hearing.

MR. SMOLINSKY: Thank you, Your Honor.

THE COURT: Okay.

MR. SMOLINSKY: I will not be stepping out, Your Honor.

The next resolved matter is Onondaga, just so the record is clear, Onondaga County, based on the representation that I made earlier, has agreed to withdraw not only its objection to the ERT settlement agreement, but also to the plan of confirmation.

THE COURT: Okay.

MR. SMOLINSKY: The last issue that I'd like to address of NUMMI, the NUMMI objection. I don't know whether we have fully resolved the objection, hopefully we have, but I did want to put on the record certain agreements and understandings that we've reached in discussion.

First of all, we've agreed that if there are any set-off issues between NUMMI and the debtors, that that would be addressed through the adversary proceeding through the litigation that's separately pending before Your Honor, and I so state on the record.

Second, with respect to the dissolution of NUMMI, we've agreed, I think it's a reasonable agreement, that in connection with the dissolution of NUMMI that we would comply with all of the corporate governance necessities under that vehicle, with a caveat that we, of course, as you know, need to dissolve MLC prior to December of 2011. So we'll work with them to comply with their needs, and also to address ours.

The next issue is I think one that you may have heard a couple of days ago. The debtors have fully reserved for the liquidated 500 million dollar NUMMI claim, and after discussions with them, I think that resolves the reserve portion of their objection.

And finally, with their objection that the -- they were concerned that the confirmation order would somehow impact their adversary proceeding, we've added specific language that,

in fact, it will not, and that would be paragraph 51 of the order at page 49 of the one that was circulated last night.

With that, maybe I'll pause and see if there are any comments on those specific objections.

THE COURT: Sure.

MR. MCKANE: Your Honor, for the record, Mark McKane of Kirkland and Ellis on behalf of NUMMI.

Based on the representations that Mr. Smolinsky has made today on the record, as well as the revised proposed confirmation order, we no longer have an objection to the plan. Thank you.

THE COURT: Very good. Okay. Thank you.

MR. SMOLINSKY: Your Honor, I think that that leaves, as I've been educated, the Town of Salina, the State of New York, and the various Green Wedlake Nova Scotia objections.

Mr. Karotkin will be handling the Nova Scotia objections, so I think we can address the Town of Salina and the State of New York now.

THE COURT: Do I still have an objection from California?

MR. SMOLINSKY: Oh, I'm sorry, and California. You're correct, Your Honor.

THE COURT: All right.

MR. SMOLINSKY: We've had numerous discussions with these objectors over the last several days, and at this point

rather than doing the traditional, I'll respond to their objections, I'm a little bit in the air in terms of what objections still remain. Certainly those objections may have been modified by your earlier ruling, and perhaps the best way to address it is to have those objectors speak on the various issues that you raised in your order, and then I could respond.

THE COURT: I think that'd be helpful, but there's one thing that you can do for me, Mr. Smolinsky. Forgive me and anybody who's listening in other rooms for this, because normally I keep this microphone close enough so people can hear in this room, and I gather when I do that, it gets too loud for people in the other room.

But it looked to me like Green Hunt Wedlake and the Nova Scotia noteholders had made an addition of -- to their more important points, a number of what I thought were requests for clarifications. Have those all been buttoned up or are those issues still on the table, or is that best asked to Green Hunt, Wedlake and to Nova Scotia noteholders?

MR. KAROTKIN: Your Honor, I think a number of them have been buttoned up, but there are two or three I think that still remain, I think relating to reserves, specific reserves that they're requesting for their claims, as well as --

THE COURT: Well, I didn't think the specific reserve contention was one that could be resolved by a clarification, but I thought there were about three or four bullet points that

I scratched my head, and wondered if they were really issues or not. I guess I can let them speak to it, unless, Mr. Mayer, you can help me.

MR. MAYER: Yes, Your Honor, both before the hearing, and in fact, during the break, I was able to confer with the gentleman from Greenberg, Traurig, and I believe we can go through their particular objection, tick off those bullet points that have been resolved, and focus the Court on the two or three that still remain, and I'm happy to do that now or later, as Your Honor wishes.

THE COURT: If you're happy to do it now, I wonder if that might be constructive, and then I'll give Mr. Zirinsky and I don't see Mr. Golden, is he here, or somebody from his firm? Oh, Mr. Dublin, all right.

Yeah, why don't you go ahead and do that, Mr. Mayer.

MR. MAYER: And again, Your Honor, it would be useful to have in front of you the objection of Appaloosa Management filed by Greenberg Traurig.

THE COURT: Okay. Well, I found it before when you originally spoke and then I got it mixed up with everything else. Give me a second.

MR. MAYER: Your Honor, I have an extra copy as part of a binder. Would that expedite things, I can simply hand that up?

THE COURT: Well, give me a second, because I'd

rather use my marked up one. I've got it now. Go ahead. What page did you have in mind?

MR. MAYER: If you go to the first page after the table of authorities --

THE COURT: In the preliminary statement?

MR. MAYER: That's correct.

THE COURT: Yeah. Go ahead.

MR. MAYER: The first three bullet points remain open, and will be the subject of argument. The fourth bullet point relating to Section 7.3 has been changed to eliminate the concern expressed in that bullet point. Their claims will not be subject to estimation. I stated that correctly?

The next bullet point relating to Section 510, relating to their retaining debt securities, that problem has also been fixed. I believe that language has been accepted. Yes?

All right. The next bullet point on Section 6.7 relating to the cancellation of the Nova Scotia Fiscal and Paying Agency Agreement, during the break I believe the debtors and the Nova Scotia holders and the committee agreed on language that will clarify that the Nova Scotia Fiscal and Paying Agency Agreement is being canceled, solely with respect to the debtors and their successors. Have I stated that correctly?

MR. UNIDENTIFIED: That's in principle what we agreed

to. We haven't actually seen the language, but subject to that --

MR. MAYER: All right. And this is a cousin of the issue raised by Mr. Toder, I believe.

The next issue on page two at the top, Section 610 of the plan, this has been addressed in the change in the order, so I believe that it is now clear that GM Nova Scotia is not being dissolved.

Section -- the next bullet point relates to their concerns that in between the -- the noteholder's concerns, that in between the confirmation of the plan and the effective date of the plan, it wasn't clear if the GUC Trust agreement could be changed. And we have agreed that Section 1127 will apply to any changes in the GUC Trust agreement between confirmation and the effective date, to the extent Section 1127 requires us to obtain Court approval, we will obtain Court approval.

THE COURT: Okay.

MR. MAYER: The next bullet point relating to the unit issuance ratio, we provided language acceptable to them. That is no longer an issue. Am I right about that?

MR. UNIDENTIFIED: Yes.

MR. MAYER: And finally, with respect to Section 5.9, this last bullet, this is actually -- we've got language which solves this. It appears in two different places, if I can ask the Court for one second.

(Pause)

MR. MAYER: Your Honor, it's the purpose of the GUC Trust to make sure that people get the same treatment of their claim, whether they're allowed early or late. That's what we've tried to draft.

The trust has lots of formulas that attempts to achieve this, but we thought it would be useful in connection with this objection, and it may end up being useful with respect to some objections by New York State and others, to insert in Section 5.3(b) of the trust agreement, and I believe this is the changed pages that have been delivered to chambers, but it's worth reading. It's a short sentence, but it's substantive.

"For the avoidance of doubt, it is intended that the distributions to be made to holders of resolved, allowed, general unsecured claims, in accordance with this Section 5.3, shall provide such holders as nearly as possible with the exact same amount of distributions of each asset type, as if such holders had been holders of initial allowed general unsecured claims."

I mean the English is not Shakespeare, but hopefully, it is clear enough that the purpose of this agreement is to make sure that if you're allowed early or you're allowed late, you're getting the same distributions. That's the intent of the agreement.

And in connection with that, although we will still have some arguments about issues they may want to raise in connection with that intent, in connection with this particular issue raised by the Nova Scotia noteholders, going back to their objection on page two, Section 5.9 of the GUC Trust agreement authorizes the GUC Trust to make distributions that are quote, not in technical compliance with the distributions of the GUC Trust agreement. They objected to that, and we have agreed to insert language that provides that any such distributions must comply with Section 5.3(b).

The point of this 5.9 was to provide minor flexibility to the GUC trustee to basically make everybody come out equal, and the purpose of relating it back to 5.3(b) is to limit the freedom of the GUC trustee to make those technical changes to the explicit intent in 5.3(b) that everybody comes out the same.

THE COURT: So you're saying that the purpose was to help people whose claims might later be resolved or allowed, rather than to prejudice them?

MR. MAYER: That is correct. And we've tried to make that clear through this language.

THE COURT: Okay.

MR. MAYER: That's what I have with respect to the Nova Scotia holder issues that I think have been resolved. Have I missed anything or misstated anything?

THE COURT: Mr. Ticoll, come to a microphone, please, if you want to be heard.

MR. TICOLL: Good afternoon, Your Honor, Gary Ticoll of Greenberg Traurig. I think that accurately states it. I only have, I think, one thing that Mr. Mayer forgot to mention with respect to the last point, the avoidance action trust agreement has a provision which is basically verbatim or similar to 5.9 and --

THE COURT: You wanted the same thing in the avoidance --

MR. TICOLL: -- the committee agreed --

THE COURT: -- trust that you do in the general -- the GUC trust?

MR. TICOLL: Right. That was part of what we agreed upon.

THE COURT: Do you have a problem with that, Mr. Mayer?

MR. MAYER: That is correct, Your Honor, that is our agreement, and we will make the avoidance action trust language mirror the language in the GUC trust agreement with respect to this point.

THE COURT: Okay.

MR. TICOLL: Thank you, Your Honor.

THE COURT: All right then. I think we're now up to the remaining objections, and there's been some coordination.

I'd like to show a little bit of flexibility in the order in which I take them, as long as people are coordinated. So I'll hear from Ms. Leary, or Mr. Zirinsky, or Mr. Dublin, or whomever. Ms. Leary, come on up, please.

MS. LEARY: I might take too long. Thank you, Your Honor. I think the -- last week, as difficult as it probably was for the debtors and the creditors' committee, I think both the GUC trust and the plan got better. There's still some issues outstanding, and I want to go back to your order of February 24th, which I discussed earlier in terms of coordination.

We originally -- I think we're designated to speak as sort of a representative for NUMMI. Now it's just Salina and California and New York. I think there's some easy issues here that I can very quickly dispose of, in terms of our position being presented on the record. I'm a little bit concerned about the length of time I'm up here, when there's someone else that may take a shorter period of time if --

THE COURT: I didn't get the impression he was going to take a shorter period of time.

MS. LEARY: Say no more. We did have lengthy conversation with the debtors about some language on jurisdiction. I want to talk about that first. It's 2(d) of your order. We went through the Chemtura case with Your Honor, we went back to that confirmation order, and the single big

difference is the use of that word exclusive. And I think the Court's well aware of the law in the area.

Nobody in this room can change whatever your jurisdiction is, and New York and none of the other objecting parties that we're speaking for would pretend to do that. It is what it is, but the fact is, is that there lots of different statutes under which governments and others operate that also use those words.

So we have some real concerns, and what we cited to Your Honor was the General Media case, 335 BR 66 at -- I'm sorry, we did not cite this, but I want to raise it to the Court. Jurisdiction, even though California's papers state that it essentially shrinks, I want to raise to your Court's attention, Judge Bernstein's decision in General Media at page 74, note 7, in which he makes a differentiation between a liquidating 11 and a reorganization, in terms of the shrinking.

So it doesn't shrink as much in a liquidating 11, because the potential for the Court's jurisdiction to go on and on and on and on for years is not evident. There will be an end date.

But the fact is, is that this Court is eminently able to determine its jurisdiction and to state in a plan that it's exclusive or not is inappropriate, and we would ask the Court to stay in line with the Chemtura plan and your order confirming that plan, in which the use of the word exclusive is

not there.

Let me tell you why this makes a difference, and it's fairly simple. There are lots of environmental statutes that give other courts exclusive jurisdiction. That doesn't mean that this Court doesn't have jurisdiction as well, it just means that there's an issue.

There's no one, including New York, that is going to go running into another court before we come here first. That's -- and I can make that commitment to you on behalf of my state.

We have been here since the 363 motion, and we may be back, but the fact is, is that under 362(b)(4), we have the ability to deal with public health issues and environmental issues without the automatic stay. As I mentioned in my papers, New York and all the governmental entities in this case have been enjoined since the beginning of that case. We have not had our 362(b)(4) ability to move our claims to judgment and liquidate them or to otherwise act in a way without coming to the Court.

That hasn't been prejudicial to date to any great degree, but it could be in the future. I can't predict. But I can make a commitment that we will be back to this Court if there is any question.

THE COURT: Let me tell you what's bothering me, Ms. Leary, and the problem isn't you or the kinds of interest

that you and other environmental regulatory authorities enforce. I've been here for a while now, I've been here for ten years, and the kinds of abuses I see by litigants and claimants of different character has become quite a matter of concern to me. And even vis-à-vis the 363 order that I entered in July of 2009 where dealers, in particular, tried to end run the Court by suing elsewhere. That was a matter of concern to me. So -- and if this creates a schism between you and other objectors, then we'll just have to let them be heard. I don't have a problem with letting environmental authorities exercise any concurrent jurisdiction they might have, but I have a problem with people who are trying to get cute, who are trying to get around orders that we have, to be terrorists, not in the Osama bin Laden sense, but to make mischief. And I think provisions of that character have importance for that reason. Help me on that.

MS. LEARY: I will, and I definitely see the interests that the Court, and I believe that that interest is an important one to serve. I have not been party to those kinds of abuses or understood that they were happening, although I hear Your Honor.

The fact is, is that there perhaps should be some clarification in your confirmation order. Without the use of the word exclusive, that in the abundance of caution, any party who seeks to bring an action elsewhere shall come to this Court

and talk about it. So that you can --

THE COURT: Are you suggesting then I might be a gatekeeper, and I might say, of course you should be allowed to sue in the Northern District of New York or up at Foley Square, but that you can't try to use a technique of that character to get around what I've been trying to accomplish here?

MS. LEARY: I think there's a tension here between a bigger picture than just the dealers, or those parties that abuse. And on a case by case basis, I would have confidence that the Court would be able to deal with dealers or other abusing parties, but as we cite in our papers, Mystic Tank, which is a 3rd Circuit case and NRG Energy which is, I believe, an 8th Circuit case, the exclusive jurisdiction provisions against the Government are invalid.

So if Your Honor could serve that interest --

THE COURT: Against the federal government, state governments, or both?

MS. LEARY: Well, in the situation of both Mystic Tank and NRG Energy, I believe they were both state government cases. Mystic Tank is 544 F3d. I don't seem to have written down in my notes the NRG Energy citation, but I will give that to your law secretary at the break.

And I believe that this Court in DSBD said it clearly enough, "although these provisions have the salutatory purpose --" I'm sorry, I'm confusing two cases. I believe in DSBD, you

cited the Metromedia Fiber case. And to me the law is clear that this Court has extremely broad jurisdiction of all of the matters that are listed in the plan. No question about it. We don't refute that. It's the use of the term exclusive, which seems to say that there's no one -- there's no other court that can do anything in this completely broad arena.

In fact, if we were to come to you as we likely would, should we find ourselves in a position of having to go to another court, we would be pretty confident that you would agree with us that we could go, or we wouldn't appear before you.

So I guess the question is what language could the confirmation order contain that would serve the interests of the Government, and this is a real interest to both California, particularly California and New York. California's interest obviously because of their fiscal problem is they can't come here, they don't have the money, they are under tremendous travel restrictions, and I believe Ms. Karlin or Ms. Padeer (ph) or both are on the phone to verify that.

Their big concern is that every time they have to deal in a governmental sense with the protection of human health and the environment, they've got to come here for the next however many years.

So is there a middle ground? I think so. Can I say that should just the Government have that? That's the

interests I represent, but to me, the use of the word exclusive, the case law's clear, it's not exclusive.

THE COURT: Would it meet your concerns if I inserted a provision in the confirmation order in the nature of a proviso that said, that nothing will prohibit any governmental entity from enforcing its 959 rights, 28 USC 959 rights?

MS. LEARY: I'm not sure that that's -- I don't think that that's broad enough. I don't think 959(b) rights are broad enough. Because it's all about property of the estate, and there are a lot of things that debtors do that may not have anything to do with property of the estate. And so --

THE COURT: You read 959 as not complying with law generally, but rather using your property in compliance with law?

MS. LEARY: Yes. And I think the language, the express language of 959(b) is, shall manage and operate property of the estate in compliance with the laws of the state in which the property is located. So there is a little bit of a narrowness on this owned property, not owned property. There's lots of things the debtors can do that may have nothing to do with property of the estate per se.

So that, I think it's getting there, Your Honor, and one of the things that may be helpful for us to do is for California and New York to go back and have this discussion with Mr. Smolinsky. I know that California provided some

language that was not acceptable, and so that's where, you know, we ran out of time, frankly.

THE COURT: Okay. Well, certainly I have to give Mr. Smolinsky the opportunity to be heard, but it also occurs to me and I'm going to invite you to comment on this, and also Old GM, I would think that most of the stuff that's going to be a matter of concern to you, if it's bad from a public perspective, would be done by New GM, rather than Old GM.

MS. LEARY: Well, that's a very interesting point, Your Honor, and the one question --

THE COURT: And forgive me for interrupting you, but I assume you got pretty broad rights to make New GM comply with the law?

MS. LEARY: That depends on whether somebody can trigger up the master sale and purchase agreement. I mean, one of the things that disturbed me in my discussions with the debtor was, we said we are not attempting to constrict or circumscribe the jurisdiction of the Court, it is what it is. On the -- and the question to them was, are you attempting -- you're not attempting to expand the jurisdiction of the Court, are you? And the answer to that was, yes, we are.

And the example given to me was the master sale and purchase agreement, and I'm not going to comment on whether that's appropriate or not. It's a, I see through the pendency of the case that jurisdiction has been exercised repeatedly

with respect to issues arising under that agreement.

But it's a little bit muddy in my view to just say most of what we're going to do is as to New GM. I don't know that. The scenarios are difficult for me to recount to the Court. I cannot predict to the Court in what context this might arise with MLC or the GUC Trust or whoever in the case and so forth. But the fact is that I'm trying to protect the interests of the state in being able to exercise its governmental regulatory authority, without -- and California similarly, without being concerned that every single issue must be decided by this Court, which is how I read exclusive jurisdiction.

I think that this Court is going to be the first one to recognize, as I think it did in Chemtura, where that line is, in terms of what should go to the district court and in what context. And as the Court may recall in that context, it was an adversary proceeding, the challenged fundamental orders issued by the Government on the basis of the question of whether they were dischargeable claims, whether they were actually claims within the meaning of the Code.

THE COURT: Of course, I think the decision to yank the reference was Richard Berman's, rather than mine.

MS. LEARY: That is correct, Your Honor, but I recall specifically having a conference or an appearance before you in which you were quite clear about the basis for the Government's

request to withdraw the reference. And so I'm just suggesting that this is not going to be a mystery later, but I think it's important for the governments at least to know that this exclusivity of the Court's jurisdiction doesn't really mean what it says.

THE COURT: Well, my practical problem, Ms. Leary, is knowing when I should take exclusive jurisdiction or not. It's kind of like Potter Stewart and pornography.

MS. LEARY: I -- that's my point exactly, Your Honor. That I think you're going to know when you see it, and yet you don't need that word in the confirmation order. There's going to be a big difference between when the United States or the State of New York or California comes before you and a dealer comes before you, you know, from an obvious perspective.

So somehow our interests to protect our authority has to be served. How that's done, you know, I don't mean to abandon discussions with the debtors in this regard, but they were pretty firm that they did not want that word to come out, and that's really all we're asking.

We think that the dealers can clearly see from the listing of matters that follow in Section 11.1, there's no question they can't run somewhere else. So you don't need to use that word to make sure that the message is clear in the plan, as well as the Court's confirmation order.

THE COURT: Okay. I'm with you and understand the

issues. Thank you.

MS. LEARY: Do you want me to move to the next issue or to give Mr. Smolinsky the opportunity to address the jurisdiction issue?

THE COURT: I think it would be conceptually easiest for me if he responds now, if he doesn't mind. Can you do that, Mr. Smolinsky?

MR. SMOLINSKY: Thank you, Your Honor. I think Ms. Leary aptly capsulated our position when she said that we were not willing to budge on this issue. I think because this is a liquidating case, in particular, it is very important to us that we have -- Your Honor have exclusive jurisdiction for the matters that are set forth in the plan. We don't want to be chased to various courts all over the country, from Mr. Karotkin and my perspective being the subject of a maritime lien filed in Massachusetts by Mr. Spencer, one of our creditors, I am --

THE COURT: Say that again.

MR. SMOLINSKY: One of our creditors, Barry Spencer has --

THE COURT: One of whose creditors? Your creditor or a creditor --

MR. SMOLINSKY: No, I'm sorry.

THE COURT: -- of Old GM?

MR. SMOLINSKY: I'm sorry, I pay all my bills on

time. The -- one of the debtor's creditors has been very aggressive in his pursuit of the estate, and in that regard, has filed actions in Massachusetts that we're going to have to deal with, but has also filed maritime liens against the U.S.S. Karotkin and the U.S.S. Smolinsky. But we'll get to that.

Your Honor, in trying to assess the --

THE COURT: Now you know why I said what I said about Potter Stewart. But you also understand that I am concerned about governmental agencies being allowed to do their day-to-day regulatory stuff.

MR. SMOLINSKY: Well, Your Honor, when I spoke to Ms. Leary and the State of California about their concerns and asked them to articulate what they were concerned about, Ms. Leary kept coming back to her concern that if the claims that are -- need to be resolved, for instance, Onondaga County, are not resolved consensually, that she wants to consider where else she can seek to have those claims liquidated.

Now, from my perspective --

THE COURT: Liquidating an unsecured claim in --

MR. SMOLINSKY: That's correct, Your Honor.

THE COURT: -- another court?

MR. SMOLINSKY: That's correct, Your Honor. So, you know, from my perspective, from our perspective, that's -- there could be nothing clearer that that's something which is governed under 157(b)(2)(b) as a core proceeding, 28 USC, of

course, that would be a core proceeding that would be exclusively within the purview of Your Honor, nor do we want to --

THE COURT: Well, that would be exclusively within the purview of the federal courts of the Southern District of New York, but 157 says that as a core matter I can decide it, but a district judge would still have 1334 jurisdiction, and would have the ability to determine whether there's something that makes it sufficiently oddball that he or she should hear it up at Foley Square.

MR. SMOLINSKY: And, Your Honor, there is language following the listing of the exclusive jurisdiction, which says to the extent the bankruptcy court is not permitted under any applicable law to preside over any of the foregoing matters, the reference to the bankruptcy court in this Article 11 shall be deemed to be replaced with the district court.

So we have taken into account the fact that there may be things that bring into the picture federal laws that can't be presided over by you, in which the district court would be an acceptable jurisdiction to hear that matter.

In discussing with the State of California what their issues were, their issues were that if, for example, another PRP at the Freemont, California site sued California over the property, over the site, that they did not want to be dragged to New York to have that matter heard in the bankruptcy court;

and I think that's a perfect example of a situation that wouldn't be a matter that's arising of or related to the Chapter 11, and would not be caught up under this section.

So because of the failure to articulate exactly what we're talking about, it's hard to say that Your Honor will be the gatekeeper, because I don't think we want to litigate on these types of issues before Your Honor every time these issues come up.

I think the State of California's issues are addressed --

THE COURT: Well, New GM made me do it six times.

MR. SMOLINSKY: And that's one of the examples that I gave them, that you retained jurisdiction under the APA, and to enforce the order, and this is the appropriate place to do that.

Just with respect to the Chemtura example, I don't know that Chemtura is substantively different, because the Chemtura order says that notwithstanding the entry of the confirmation order and the occurrence of the effective date, on and after the effective date, the bankruptcy court shall retain such jurisdiction, that's all the jurisdiction that the bankruptcy court had during the case; over the Chapter 11 cases and all matters arising out of or related to the Chapter 11 cases and the plan, including, and then on and on.

We went back and looked at the Adelphia order, and we

have all these orders for Your Honor to look at if you desire. The Adelphia order says the bankruptcy court shall have exclusive jurisdiction. The Lyondell order says that the bankruptcy court shall have -- shall retain exclusive jurisdiction. The BearingPoint order says that the bankruptcy court shall have exclusive jurisdiction. So this is nothing new. This is nothing that we're adding that is unique in this case, and that's not necessarily the, you know, the basis for Your Honor to approve the language.

But I think it is very important that we have comfort that Your Honor will retain the same level of jurisdiction that it had during the case as we go forward through our liquidation.

THE COURT: Mr. Smolinksy, Chemtura and Adelphia, and I don't remember whether you said Lyondell, but if you did, it would be equally true, are poster children for why I have the rule that say that we don't use prior orders as precedence unless the Judge focused on the issue and was asked to rule on it.

It seems to me that, and I may want to think about this a little more, but I understand where you're coming from and the abuses that I saw with New GM having to come in, and I mean, it took a lot of my time, but I understood why New GM had to come in to deal with those dealers, points out why you should have the protection you're asking me to give here.

But I also understand Ms. Leary's desires, at least some of them. I'm not enamored of the idea of people trying to dispute claims anywhere other than before me, unless I decide that that's appropriate, which I'm not likely to do on garden variety claims.

But the problem I have is that I think she made a decent case that you've got to have some kind of escape valve or some way to deal with the situation where having exclusive jurisdiction is nutty. And I guess the question I'm going to ask you, and I'm going to ask Ms. Leary if she wants to reply on this, is whether I should try to draw the line, or whether I'm better served having you put your noodle together with her, to try to negotiate out how you draft the language to draw the line.

MR. SMOLINSKY: Your Honor, I don't know that it would be productive to try to reach an agreement about language. I think that there's a practical answer and a legal answer.

The practical answer is that MLC will be around, Motors Liquidation Company, for a very short period of time, and then it will be gone. The GUC Trust has very little role that is crucially related to the core aspect of what it's in business to do, to reconcile claims and make distributions.

The Environmental Response Trust, from the debtor's perspective, I'm not sure that we're as concerned about that,

and we understand Ms. Leary's concern that if there is an environmental spill at one of those properties, that she needs to go elsewhere. But I would suggest that the legal response is that the language says retain jurisdiction, it doesn't say create jurisdiction.

So to the extent that something is not subject to the stay under 362, where a governmental agency can take steps to protect, you know, the health and human welfare, and they can go wherever they want, we're not trying to deal with that in the section, because it's only retaining jurisdiction.

You never had exclusive jurisdiction in regard to that in the first place. And so I don't think we're expanding what we already have, but what we have we want to retain. And I'll carve out the Environmental Response Trust for a minute, because I don't know that the debtors are the ones to speak about that in their activities going forward. Other than to say that certainly there are issues such as implementation and interpretation of the consent decree and settlement agreement that are probably before this Court if they arise in the future.

THE COURT: One last question, Mr. Smolinsky, unless you want to continue. You've got a pretty good firm and you've got an army of associates who can find anything for you if it's there. I assume that if you had a case as contrasted to past orders, you would've told me so, on point?

MR. SMOLINSKY: Your Honor, I focused on cases that were before Your Honor, and we did not do a thorough search of all orders --

THE COURT: I mean, I haven't focused on this issue before, personally. I've been generally aware of these issues when people come back to me to invoke these clauses. I am not aware of any case that has focused on this that's given me a true precedent, in the sense of saying, for the following reasons, I think it should be exclusive to this extent and not another. Are you aware of any?

MR. SMOLINSKY: I'm not, Your Honor, and it's a very difficult exercise to come up with a list of examples that should be coextensive, as opposed to exclusive.

THE COURT: Well, I think it's very easy for me to decide when I shouldn't invoke the power. I think it's just hard for me to articulate a rule in advance. I mean, that's kind of like what I meant about Potter Stewart. I know when people are trying to circumvent my orders, and I know when they're trying to be abusive, and I know when they're just trying to do, you know, their regulatory jobs or whatever.

MR. SMOLINSKY: Your Honor, I think that subject to other people -- what other people might think that in the language, to the extent of subject to further order of the Court, where you have to come here first, I don't really want that with respect to anybody, because I -- we may see a parade

of people thinking that they have the right to go elsewhere on basic matters.

THE COURT: Well, I can just tell them to pound sand and you'll earn more fees when you do it.

MR. SMOLINSKY: I'd like to think that I'm beyond the priorities of just earning fees, and I do have an interest in protecting the estate each time we have to do that, it does cost the estate money. And it does have -- the GUC Trust is going to have a very limited budget.

So I think sending out the message very clearly that if you have anything arising out of or related to the Chapter 11 case, you better come here, I think that's what this language accomplishes.

And we're not asking Your Honor to in perpetuity, necessarily be bound to hear every matter that we come before you on, to the extent that you think that it should go elsewhere, you, of course, have that right. But I do not want to put in if I could, if we can help it, actual of invite people to come in and test the boundaries of the rules to --

THE COURT: All right.

MR. SMOLINSKY: -- take jurisdiction of --

THE COURT: Fair enough. Ms. Leary, I don't know if you need to reply but if you have any ideas for drawing a line or any final thoughts, I'll take them. I do want to move on. I think I've taken a lot of time on an issue which is, of

course, important from a regulatory perspective, but which doesn't affect a lot of creditors.

MS. LEARY: Your Honor, it really is, and think of the result. The first thing that's going to happen is somebody who steps out of this exclusive jurisdiction, is that the debtors are going to come in and seek, I think, contempt or some sanction with respect to a violation of the confirmation order.

I want to clarify though a discussion that Mr. Smolinsky referred to that we had yesterday, in which I gave an example of a situation in which there would be an issue between whether this court and another court hears it. It was not with respect to an allowance of a claim, which is covered under 157(b)(2)(b), it was not about estimation, which is also under that provision, and which we readily concede, absolutely, this Court is it.

What we are permitted to do as the Government, what 362(b)(4) gives us the ability to do, is to commence or continue an action if it's enforcement of our police regulatory authority, period.

If we -- so during this case, what we would normally do if there were a major issue of impairment of human health or some threat, imminent threat, we would go to New York State Court or to a federal court under state or federal environmental law and seek that it be stopped. We would not

look for money, we would not affect the estate, what we would look for is to have our position crystallized by a judicial forum of appropriate jurisdiction.

I don't think that this Court wants to hear all about the technical environmental stuff. And the reason I raised the Chemtura matter was because in that case, as the Court may recall, we were looking at the kind of injunctive orders that deal with that protection of human health and the environment.

And under the City of New York versus Exxon, the 2nd Circuit in this -- which is precedent in this district -- has said, the Government can proceed all the way to judgment, it can liquidate its claim in another forum. Can it go beyond that to levy on any assets of the estate, absolutely not. But we have the ability to move it to liquidation.

So for Mr. Smolinsky to mischaracterize our example, which was --

MR. SMOLINSKY: No.

MS. LEARY: Yes, it was liquidation of a plan, but it was essentially seeking relief under federal or state environmental laws, and we're entitled to do that.

So the exclusive jurisdiction, and here's the scenario I gave them, just before I forget, Your Honor. What I said was, we have a number of claims in this case that arise under CERCLA and Requa (ph), federal hazardous waste or Superfund law. And let's assume we can't resolve one or more

of those claims. Obviously, we're going to have to go to the substance of those claims. Resolving the amount of an allowed claim is different than the question of whether the debtors in disputing that claim have liability for it, whether our costs are inconsistent with the national contingency plan, whether they have available defenses under CERCLA and Requa, all the kinds of federal questions that this Court may not want to hear.

Now again, I think, as a practical matter, the Government comes to you and says, this is what's going on, this is what we think we need to do, and this is where I think we need to go. And not to have that ability because the jurisdiction is framed as exclusive is a real problem. There's a sanction here that we don't want to live with. We want to be able to exercise our authority as the Code gives it, as the Code recognizes it.

So basically, I hear Mr. Smolinsky not interested in talking about this, we're going to agree to disagree about whether exclusive should be in there or not. I think Your Honor has grasped a way to get around this. Whether that actually comes down to language that we can offer or that you can come up with, I am at your service. I am willing to sit down with Mr. Smolinsky, but I think that the clarity in the plan and the confirmation are critical here for the Government, as to jurisdiction, as to where we go from here.

And remember, we have been enjoined during the entire case, 362(b)(4) went right out the window with that first day order. We asked the debtors to eliminate that provision, and nothing really came of it. Luckily, we didn't have a crisis where we would have to exercise that authority. But certainly one of the positions that I'll offer later is that I was unable to liquidate the amount of my claim in a court where my state law or federal law gives me the ability to move under 362(b)(4).

I could've gone somewhere else but for this Court's first day order, that circumscribed the Government's ability to commence or continue.

THE COURT: We're really spending a lot of time on this, but I've got to ask you, Ms. Leary. I had never understood 36 -- I still talk in terms of (b)(3), was the numbering changed?

MS. LEARY: (b)(4). Oh --

THE COURT: Somebody stick something in there. The police and regulatory power --

MS. LEARY: Yes.

THE COURT: -- that you got as an exception to the automatic stay. I always thought that gave municipalities the -- and others the power to, you know, get injunctive type of relief, to get somebody to clean something up, to stop doing something bad, to curb a nuisance, but I didn't understand it

to authorize, you know, getting claims for money.

MS. LEARY: Oh, yeah, the City of New York versus Exxon, the 2nd Circuit says it flat out, you know, CERCLA context. If the Government's looking for a response cost, go ahead, move to judgment. You cannot go beyond that point, and that's State of New York versus Enstraronsky Cooper (ph) in the Northern District, Judge McCurn, but that is the point at which you can go.

And in this circuit, I believe it was Judge Cotrell in the State of New York versus Mirant case that analyzed this very clear and obvious power. And in that case what happened was, Mirant had entered into a consent decree with the State of New York and went -- and two weeks later went bankrupt in Texas. And then when New York went to lodge the consent decree and have it approved by the district court, Mirant went screaming in the bankruptcy court, and came to Judge Cotell and said, you can't -- you cannot enter this decree, this all has to be before Judge Lynn in the district --

THE COURT: Mike Lynn in Fort Worth?

MS. LEARY: Yes.

THE COURT: Uh-huh.

MS. LEARY: And so thankfully Judge Lynn did not agree, and neither did Judge Cotell. But I think that decision, it's a published one. I don't have the -- I believe the citation is in our papers.

The distinction between the position of the Government enforcing its police and regulatory authority is very clear. And in City of New York versus Exxon, it can be seeking money, you just can't affect property of the estate, take it up to that point and no further. But the federal district court is entitled under CERCLA to set that amount, to find liability, and set response costs that are due and owing.

THE COURT: Okay. Anything else?

MS. LEARY: Thank you.

THE COURT: Mr. Smolinsky, hopefully limited to what Ms. Leary said the last round.

MR. SMOLINSKY: Yes, Your Honor. I think Ms. Leary's statements highlight exactly why we don't think it would be productive to sit down and have a discussion.

Your Honor, we're okay with concurrent jurisdiction over 362(b)(4), of course we are. We never said that police and regulatory enforcement, the kind of things that you're talking about, the injunctive relief, is going to be heard before you as a court of first instance.

But you have to understand what post effective date, you know, debtor look like. There's no property, there's nothing to administer, and therefore, we think that police and regulatory power, while it's okay, that's not the situation in Mirant.

THE COURT: So we've been talking for the last half

hour on angels on heads of pins?

MR. SMOLINSKY: Well, no, because she's going further, and Ms. Leary is saying, wait a minute, since CERCLA in a non-bankruptcy context says that you can go and get a judgment for money damages, that now she's excluded from having to come before Your Honor to liquidate the claim, and we vehemently disagree with that.

And so we would only ask Your Honor in considering this matter, if Your Honor wants to talk about police and regulatory power, which I'm fine with, it should not go beyond that to put us in the position where they're going to be arguing before some other court, some state court in New York, or some federal court other than the Southern District of New York, upon withdrawal of the reference that they have -- that that court has the right to liquidate the claims, allowance and disallowance of claims.

And that's exactly what I discussed with her. So it starts off as police and regulatory power and then all of a sudden it shifts to the fixing and allowance of a claim. And so that's the only thing I would add, Your Honor, in response to her statements.

THE COURT: Okay. Am I correct that we can now consider that discussion shut down? All right.

It's now 12:30. We have a way to go. I would love to finish this afternoon or tonight. I don't know if we can.

I can go tomorrow if we need to, but I would like to move as efficiently as we can. I think I'd like to, since we're at a natural breaking point, take a break for an hour now. Resume at 1:30, and then we'll move on.

I'd like the people in their lunch hour just work out amongst themselves what order the objectors are going to be want to be heard. Mr. Jones?

MR. JONES: Your Honor, I apologize for standing slightly late off cue, but I did want to observe, because the treatment of the Environmental Response Trust came up in the argument that you just --

THE COURT: I'm interested in that. Just come over to a microphone, closer, please.

MR. JONES: Your Honor, I just wanted to point out something that was not stated, which is that although the Environmental Response Trust was mentioned in the argument, it was not mentioned that the current plan includes a provision that -- under the exclusive jurisdiction provision, saying provided however that the bankruptcy court's jurisdiction with response to the Environmental Response Trust agreement and the consent decree and settlement agreement shall be concurrent with the jurisdiction of other courts of competent jurisdiction, over such matters to the extent such agreements provide for concurrent jurisdiction.

And in turn, the underlying agreements do preserve

concurrent jurisdiction as to environmental matters. So --

THE COURT: Can you give me a cite to that either now or with -- over the lunch break?

MR. JONES: Yes, Your Honor. It's in the proposed plan, paragraph or section, I'm not sure which is the right word, 11.1(i). The United States hasn't taken a position on this argument. We sometimes have precedential interests in whatever the order will end up saying. I will note that any ruling here can and should be confined to the unique circumstances here, including that the remaining estate post confirmation will hold no properties, because all real property will be transferred to the ERT, the Environmental Response Trust.

So given that what ordinarily might be environmental regulator policy concerns about the exclusive jurisdiction language, we think in the circumstances here, is solved by the specific treatment of the ERT.

THE COURT: All right. Thank you. Okay. We'll break until 1:45. We're in recess.

(Recessed at 12:35 p.m.; reconvened at 1:43 p.m.)

THE COURT: Have seats, everybody. Okay. Folks, do we have an understanding as to who wants to be heard next, who's going to be heard next? Mr. Smolinsky?

MR. SMOLINSKY: Your Honor, before we move forward, despite my previous comments, I think we do have language on

the exclusive jurisdiction point that we'd like to run by Your Honor, and see whether Your Honor finds it acceptable, because it is acceptable with the State of New York and the debtors.

THE COURT: You say it is acceptable to you --

MR. SMOLINSKY: Yes.

THE COURT: -- and the State of New York? Go ahead.

MR. KAROTKIN: And Treasury.

THE COURT: I beg your pardon?

MR. KAROTKIN: And Treasury.

THE COURT: And Treasury, okay.

MR. SMOLINSKY: We would add a sentence to the end of 11.1, which is the exclusive jurisdiction section that says, nothing contained in Section 11.1 shall expand the exclusive jurisdiction of the bankruptcy court beyond that permitted by applicable law.

THE COURT: Are you okay with that, Ms. Leary?

Very good. Okay. That'll be fine.

MR. SMOLINSKY: Okay.

THE COURT: And I assume it's okay with California as well? Did they have that same objection, or was this just a New York State issue?

MR. UNIDENTIFIED: Actually --

MS. KARLIN: This is Olivia Karlin for the State of California, we did have the same objection. That's fine with us.

THE COURT: Okay. Very good. All right then. That issue is off the table. Thank you.

MR. SMOLINSKY: I think in terms of moving forward, I know New York State is not done with their objections, but there has been talk about letting the Nova Scotia objections go forward at this point.

THE COURT: Okay. Is that Mr. Zirinsky?

MR. ZIRINSKY: Good afternoon, Your Honor. For the record, Bruce Zirinsky, Greenberg Traurig for Aurelius Capital, Appaloosa, Fortress, and Elliott Associates, holders of what's been referred to in these proceedings as Nova Scotia bonds.

Your Honor, we -- as Your Honor heard earlier this morning, a lot of the other technical objections have apparently been resolved that we had to the plan and confirmation order. But what remains is certainly what I would characterize as the most critical. And that goes to whether or not the plan, which includes the Nova Scotia bonds in Class III as unsecured claims, is confirmable, on the basis that unlike other claims, which are to receive distributions on the effective date of the plan, this plan expressly provides with respect to the Nova Scotia claims, as well as the Wedlake claims which are held by the trustee of the Nova Scotia bankruptcy estate in Canada, that no distributions on those claims will be made, pending further proceedings on the allowance of those claims.

Now, to put this in context, we understand that it is not all that uncommon for there to be holdbacks on distributions to claims that are under objection, but when we look at 1123, which talks about the requirement that each claim within a class gets the same treatment unless a creditor within the class has specified or agreed to something less.

And we look at the objections that -- the so-called objections that are outstanding with respect to these claims, we observe the following. One is that unlike other types of disputed claims, there is no dispute as between the debtors, New GM and other GM entities, and the noteholders, that these are valid, enforceable claims, and that they should be allowed in these proceedings in the full amount. I --

THE COURT: What's the relevance of that? Doesn't Section 502 say object -- make reference to an objection by any party of interest?

MR. ZIRINSKY: Well, I'll get to that in a moment, Your Honor, yes, it does.

THE COURT: Well, don't we normally start with textural analysis, Mr. Zirinsky?

MR. ZIRINSKY: Yes, we can start with that analysis, Your Honor, and I will go through that analysis in a moment.

502(d), if you want to get into 502, requires that a claim, in order for there to be no distribution on a claim where the basis for the objection to the claim is founded under

Section 502(d), which is what the objection is here, that somehow or another the payment of a consent fee which was done consensually, obviously, that the payment of a consent fee was somehow an avoidable transfer.

And prior to there being any determination by any court that, in fact, such a voidable transfer occurred, there is no basis for a distribution on the claim to be withheld. Not only has there been no determination that there's a fraudulent transfer or other avoidable transfer, there's not even litigation pending before the Court raising those claims.

Moreover, those claims, to the extent they had any sustenance or vitality at all, which we don't believe they do, were sold to New GM as part of the 363 sale. The estate doesn't even have any claims that could be brought, assuming a claim could be brought.

So to disallow distributions or to delay distributions on claims that are valid and enforceable based on someone's theory that there may have been some sort of an avoidable transfer is tantamount to saying that if a horse had wings, it could fly.

And the point very simply is, that as a matter of law, that is not a basis for an objection to claim. And the law and the case law is very clear to that.

Secondly, the committee's objection is premised upon a claim of equitable subordination. Well, again, there is no

claim for equitable subordination. Number one, the committee has not received leave of the court, they've never applied to the court for standing to bring a claim on equitable subordination. And secondly, again, there's no adversary proceeding pending. And again, the case law is clear, that a -- and the rules are clear, that a basis or a claim for equitable subordination shall not be contained in an objection to a claim.

So I would submit to Your Honor, those are two principle prongs of the committee's, quote, "objection," neither one of which go to the validity and enforceability of the claim. What they go to is a written statement, because it's not even a pleading. It goes to a written statement that they believe there may be some grounds which they're going to try to explore to bring a claim under one of the avoidance sections or a claim for equitable subordination, without having done so.

And again, what we're talking about is the rights of creditors holding in excess of two billion dollars of claims against this estate, creditors, who by the way, played an extremely important and valuable role in assisting the debtors through a smooth and orderly 363 sale of the business.

A sale of the Canadian business and assets could not have occurred, but for an agreement that we reached with General Motors, and GM Canada, and other affiliates just prior

to the filing of the bankruptcy. GM itself has filed a pleading, has filed papers in connection with the objections to the claims, stating affirmatively that this was a good faith intense arm's length transaction which provided very substantial benefits to GM U.S., GM Canada, and the other related entities.

And but for having been able to reach an agreement with my clients, there could not have been as smooth a transition of the business and assets to New GM, there would've been high uncertainty and risk that the transaction might not have occurred. The Canadian Government supported or provided approximately seven billion dollars in financial support in this endeavor, which was premised upon GM Canada being part of the New GM, which it is today.

And I was somewhat interested, it was somewhat ironic listening to at the outset of this hearing, you know, counsel for the debtors, and the creditors' committees and other parties, congratulating themselves on having negotiated successfully agreements that have inured to the benefit of GM, the New GM, the GM creditors, and I thought back to the time when we negotiated a deal with GM, which we thought inured to the benefit of GM, GM Canada, as well as to our clients as well, given the circumstances.

And by the way, let's remember that as part of that deal, GM Canada received a forgiveness of debt of in excess of

one billion dollars on an inter-company loan, which absolutely required the consent of the noteholders. The noteholders gave GM Canada over a billion dollar haircut on that liability, as part of that agreement.

Now, getting back into focus in terms of the objections to confirmation, I'm not here today to argue the merits of the claims. What I am here today, Your Honor, is to suggest to Your Honor that particularly in a case like this, where distributions are going to be made to creditors in the form of stock and warrants, which are volatile, subject to market vagaries, subject to events, the values fluctuate, to defer distribution of that consideration to creditors who have, on the face of it, and frankly, on the merits of it, a very strong presumption that these claims should be allowed, you have no -- you have before you no legitimate basis not to allow the claims.

I'm not suggesting the committee can't pursue a potential avoidance claim or if they wanted to seek some sort of subordination relief, or at some other litigation, they want to seek to recharacterize a consent fee as a payment of principal, which is by the way, that's all that's really in their objection, and complain about, you know, GM, New GM having engaged in certain transactions as part of the sale process, which they're now asking Your Honor to go back almost two years ago and undo portions of the sale order, and I think

a lesson can be learned from Judge Peck's recent decision in Lehman, where the creditors' committee in that case also which supported heartedly the sale to Barclay's, came back a year or two later and tried to undo it.

This was a good deal for GM at the time. It was a great deal for the GM creditors at the time. It avoided a total liquidation, a disorganized liquidation or potential for that. You heard testimony at the sale hearing that unsecured creditors in these cases would receive probably nothing if the sale did not go forward.

There is substantial value today, thankfully as a result of a lot of concessions made by a lot of people, including labor unions, dealers, other creditors, as well as my clients. All of whom made concessions in order to allow a successful sale of the assets of GM as a going concern to go to New GM.

And so here it is almost two years later, and you know, the crisis is over, and now people are saying, well, look at these guys, these Nova Scotia bondholders, they really got too good a deal, let's go to court and challenge their claims. And that's just not fair. And I don't think this Court should just allow that to happen, taking into account that creditors, my clients, as well as the trustee and counsel, Akin Gump, is here for the trustee, they can speak on his behalf more directly, but our clients are entitled to protection of their

interests. And protection of those interests means they're entitled to a distribution on those claims.

THE COURT: Mr. Zirinsky, are you going to start talking about Section 1129 any time soon?

MR. ZIRINSKY: Well, I have, Your Honor, in the sense that 1129 requires --

THE COURT: Well, please tell me which sections of 1129 you contend are violated?

MR. ZIRINSKY: The section in 1129 which provides that a plan must comply with the statute, and 1123 is part of the statute.

THE COURT: Of course it is. Now, what's your -- your 1123 contention is what, that the provision in the plan that says that claims aren't entitled to distributions until they're allowed is violative of 1123?

MR. ZIRINSKY: I'm saying the provision in the plan which speaks and addresses our claim specifically and says that they are disputed claims and are not entitled to distributions, yes, those violate 1123.

If the debtors intended to treat our claims differently from other Class III claims, they should have put them in another class, and we should've had the right to vote separately as a class.

The debtors chose to classify those claims in Class III, as a consequence of classifying us in Class III, we're

entitled to the identical treatment as other claims.

The fact that the creditors' committee has speculated in writing that there may be avoidance claims, or that there may be some -- you know, they might find some egregious grounds for equitably supporting -- subordinating the claims of the noteholders is not a basis for disallowance of the claims. It's a basis for them seeking affirmative relief if they can make the case. And thus far, they haven't made the case. They haven't even presented the case.

And as a consequence, there is no basis to withhold distributions on our claims, the effect of which is to discriminate against our claims, as opposed to other Class III claims.

THE COURT: Go on.

MR. ZIRINSKY: You know, I have represented holders of other what we call ULC or unlimited liability claims in two other cases, recent cases; one is Smurfit Stone, and one is Abitibi Bowater, both in Delaware, one before Judge Shannon, and the other before Judge Carey.

In both of those cases, where disputes were raised as to whether or not the winding up claim under Nova Scotia law and the guarantee claim, which was a direct claim of the noteholders against the debtor, were duplicative. In both of those cases, although there were objections pending at the time of confirmation, distributions were allowed on one of those two

claims.

Here, the debtors propose to distribute nothing. So we have a situation where we have two billion -- creditors holding over two billion dollars of claims, having to sit and wait while the prices of those securities go up, down, who knows, okay, over the next period of six months or a year, however long it may take for this case to be resolved, or these claims to be -- these claims by the committee to be resolved. That's almost like a prejudgment garnishment or attachment.

You're basically saying, we're not going to give you your property because somebody has a lawsuit. And that's what this is the equivalent of.

You know, there are provisions which permit this Court to make distributions. Our clients are prepared to make appropriate agreements, if there ever is a successful outcome from the committee's perspective, which we don't think there ever will be on any claims they may have filed, they can -- they know where to find us. These are not fly-by-night operations. These are large, responsible financial institutions and hedge funds.

And secondly --

THE COURT: Before you get to the secondly, Mr. Zirinsky, your argument is premised in material part or wholly on the contention that the plan inappropriately says that disputed claims don't get distributions until they're

allowed. And you cited a few cases, as did Green, Hunt, Wedlake, in which plans had provided for, I think they were partial distributions, I don't know if any of them provided for total distributions. How many cases did you and your guys go through before you found those examples of provisions that -- or plans that had provisions of that character?

MR. ZIRINSKY: I can't --

THE COURT: You've been around the block a few times. You know what has been the traditional way by which plans are formulated in this district. I can't tell you whether that's ninety percent, eighty percent, or fifty-one percent, or even thirty-five percent, but I take it you're aware of the many, many cases that have made what the plan proponents in this case put into their plan, what I think most objective observers would call the typical provision.

MR. ZIRINSKY: Typical where there's a defense to the allowance of the claim. And what I'm trying to explain, Your Honor, is that there's a difference between having a defense to an allowance of the claim, which has not been asserted. No one has disputed the enforceability of the guarantees under the indenture or under the notes.

No one has disputed the validity of those agreements. They're unconditional guarantees. And that's different from someone saying I'm not going to pay you because I think, you know, you acted badly, you committed a tort, you did something

so egregious that your claims should be equitably subordinated.

And to make it even worse, they haven't even brought a claim. All they've done is suggested in a piece of paper that they might bring a claim, that they reserve their rights to bring a claim. That's not due process. That's not the kind of objection that normally withstands the light of day.

We told Your Honor back in December that we thought these -- that we knew we were going to get to this point. We were going to be at a confirmation hearing, and we were going to be stuck, and they were going to try to withhold distributions on our claim. We asked Your Honor for leave to bring a motion for summary judgment.

Your Honor, as it is your right to do, said no, let's have full discovery. So we're engaged in discovery, but we should not have to bear the risk of diminution of loss of value of our distributions because the creditors' committee wants to go on a frolic and a folly, and you know, do a fishing expedition in the hope that they might actually find something. They won't find anything, by the way. But it's a hope and a prayer, okay.

So they're free to do that. But at the same time, we shouldn't be penalized by having our distributions withheld. Why should our distributions be withheld? There's no basis for that. They haven't said your claim -- no one has said your claim under the guarantee is invalid. And I don't think

anybody would suggest that there is a basis for saying the claim under the guarantee is invalid.

Sure, the committee might like to say that, well, you got this consent fee, and you know, we think it -- you know, we think it ought to be recharacterized. The fact is that there's a written agreement, that by the way was assumed and assigned as part of the 363 sale, which says the consent fee shall not be applied to reduce the claims. That's an agreement, it's been assumed and assigned. That's the law. That's the state of the case.

If the committee wants to upset that agreement, they have a very steep, long climb to make, and I'll be fighting them every inch of the way. But the fact of the matter is, as it stands today, there is no dispute as to the validity of our claims. These are affirmative claims that the committee would like to bring, or thinks they would like to bring. It's not a basis for holding up distributions to creditors who hold over two billion dollars of claims.

Particularly where, you know, this isn't cash in a lock box, where we can go invest it someplace and it'll be absolutely safe. We don't even have under the debtor's plan the ability to direct the investment decisions with regard to the securities that are being placed in this reserve.

So it's compounded not only by not receiving the consideration, but also having absolutely no control over your

own property while the committee spends the next two or three years litigating to its heart's content on these affirmative claims against the noteholders and the trustee.

And that's basically it in a nutshell, Your Honor. I don't want to, you know, take any more of the Court's time. I think these are very good arguments. I think these are serious arguments, and I think it does go -- it goes right to the core of what's fair and equitable in a bankruptcy proceeding. And that is, that it's not only debtors have rights, creditors have rights as well.

The Court should not be used, or a device of throwing in what's called an objection to claim, should not be used as a device to hold up distributions to large creditors, particularly where the record shows, and it's not just us saying it, it's GM saying it, where the record shows that this was a fair, arm's length negotiation whereby the GM estate derived very substantial benefits. That's the record.

There are absolutely no facts -- there are no facts in the record to contest that. The only facts, so-called facts alleged by the committee are totally conclusory allegations, allegations which as a matter of Supreme Court law, two decisions in the last several years, would not stand the light of day on a motion to dismiss.

They have not alleged any facts to support any of these claims. Their allegations are bare bone conclusory legal

allegations, and are not entitled to any credence. And if we were permitted by Your Honor to move to dismiss, I believe Your Honor, when evaluating our papers and evaluating the law, would in fact, dismiss these claims. They don't stand the light of scrutiny, as enunciated twice now in three years by the Supreme Court.

THE COURT: All right. Are you the designated speaker for any of the other Appaloosa or Green Hunt Wedlake issues?

MR. ZIRINSKY: I believe so, I don't know if anyone from Akin would like to speak or adds anything I've said on behalf of Mr. Wedlake.

THE COURT: Mr. Dublin.

MR. ZIRINSKY: Thank you, Your Honor. Yeah, let me just add, Your Honor, one other point, and I don't want this to be taken as a concession on our part, but at the very least, even if the Court were not to permit distributions at this time, at the very least, we do believe that the Court should require the debtors to establish a segregated reserve for these claims, and to give the holders of those claims appropriate discretion and direction in terms of managing the shares and warrants that would be contained in those reserves.

It's their money, subject to somebody being able to take it away from them, it's their money, and they should have the entitlement to direct how those funds or how those

securities are treated. Whether they're sold, warrants exercised, and how the proceeds are dealt with during the period that their money is being held hostage. Thank you, Your Honor.

THE COURT: All right. Mr. Dublin.

MR. DUBLIN: I'll be very brief, Your Honor. Phil Dublin, Akin Gump on behalf of Green Hunt Wedlake.

Your Honor, I'd just like to note as we set forth in our pleadings with respect to the primary issue that Mr. Zirinsky was focusing on, that we did allege a violation of 1129(a)(3) and that the company, presumably in consultation with the creditors' committee, were using the holdback of any distributions as leverage in connection with the claim objection.

The focus with respect to Green Hunt Wedlake is that our claim, at least a portion of it, not even the entirety, just a portion of it is duplicative of the guaranty claim. We understand the allegations. That's a paragraph in their twenty-odd so page claim objection, but we do note that we think that 1129(a)(3), the use of not providing for the interim distribution, at least in respect of one of the claims that are largely duplicative, and to the extent the Court deemed appropriate to reduce on account of the consent fee, but we laid that out in our pleadings. I'm not going to spend any time repeating that in front of the Court.

Your Honor, substantially all of our other issues have been resolved through conversations with the committee and the debtors. One item which I think was not addressed earlier was that with respect to our concern about setting off potential distributions on account of any allowed claim we may ultimately have. I believe the debtors were amenable -- well, their view is they don't think they have any claims to set off, but if they do, they would give us at least ten days' notice before they even sought to do any set-off, and then we could come to Court or make some other type of agreement, before that would be effectuated.

And then the last item was just on the exculpation, and we just put forth our argument in the papers, and based on the Chemtura holding, we have nothing else to add to that.

THE COURT: All right. Debtor's side, do you have any problems with what Mr. Dublin said about your deal?

MR. KAROTKIN: On the set-off, no, that's accurate.

THE COURT: Okay. All right. Who's going to respond to these, is it the debtors or the creditors' committee? Mr. Mayer?

MR. MAYER: I'm just the set-up man, Your Honor, as you know, conflicts counsel has been taking the lead on this matter, and I'd ask Mr. Seidel to come forward. I'm just briefly going to stay in line to set it up, but this is in the nature of a motion to dismiss argument, there is a disputed

claim, and it's absolutely consistent with practice that where an objection has been filed to a claim, that distributions are withheld.

I would also note, I was also involved with Mr. Zirinsky in some of the cases that he cited. They're not on all fours. Your Honor has already referred to the rule in this court that you don't take an order that's not a published decision and cite it.

This is a great example of that. The facts of the cases that are cited in their pleadings, including the Dana case, where I was counsel to the creditors' committee, and the Smurfit Stone case, where I was also counsel to the creditors' committee are not on all fours at all with what is before Your Honor, and it's difficult to respond to blank orders that don't have decisions attached to them.

With respect to the status of the litigation itself, I think it's appropriate for Mr. Seidel to --

THE COURT: Well, I'll hear from Mr. Seidel. Yeah, why don't I hear from Mr. Seidel. Remember that I'm not looking for or intending to hold a mini trial or even a mini summary judgment hearing or a mini 12(b)(6) hearing on the issues today.

MR. SEIDEL: Thank you, Your Honor. Barry Seidel, Butzel Long, special conflict counsel for the GM Creditors' committee.

I stand before Your Honor today not necessarily in a position to respond on the merits. I didn't come here to address the merits. Mr. Mayer had asked me to be prepared to address the status of the litigation, and that's why I'm standing.

We are in the midst of discovery. The allegations we've made in our claims objection relate to 502(d), as Mr. Zirinsky referenced, as well as a claim for equitable subordination. The discovery we're seeking is related to particularly the equitable subordination.

There was a lot that happened before the committee was ever formed. As Your Honor probably knows about from our papers, this is a situation where I think that the claimants have developed a cottage industry of purchasing these claims, these bonds of unlimited liability companies for cents on the dollar, and what they do is the sellers to them, sell them -- those claims fairly cheaply, not being aware of the 135 angle that they have been playing in these other cases.

This particular case is one where these claims buyers are getting the benefit for I think it's about 2.6 billion dollars of claims against this estate, when in fact, the aggregate principal amount of their bonds were only a billion dollars to start, and they got a consent fee of 360 million dollars to forebear from some litigation.

From the creditors' perspective, we think this

stinks, and the discovery is necessary to elucidate the claims objection we've made. In my experience, as well as Your Honor's, claims -- plans of reorganization withhold distributions on disputed claims. And the claims asserted by the Nova Scotia trustee and the Nova Scotia bondholders are disputed within the meaning of the statute. These are disputed claims, whether or not because they're objected to, whether or not we've alleged the equitable subordination claim, we have had preliminary discussions over a long period of time with the debtor about getting the right to bring equitable subordination in the way of a complaint, but that hasn't happened yet.

But these are all things that in the context of this ongoing litigation would be addressed. And if Your Honor has any questions about the litigation, I'll try to answer them.

THE COURT: No, not at this point. Mr. Mayer, did you want to consult with Mr. Seidel, or did you want to be heard with me?

MR. MAYER: I had one other plan point, Your Honor, related to segregated accounts. It might be useful to consider the following facts. I believe that there are, at the present time, approximately 29.5 billion dollars of allowed claims against this estate. And the total reserves are 11.5 billion dollars.

Given those two numbers, we see no need to create a special segregated reserve just for this disputed unsecured

claim. In my experience, that's highly unusual. It would also be unheard of to give a disputed creditor the right to direct the investment or disposition of planned distributions that are being held out in reserve not just for that claimant, but potentially for all the other creditors, should that claimant's claim be disallowed. And I just wanted to address those two late points. We don't believe a segregated account is required or warranted, and we think the assertion of investment control over it is unheard of.

THE COURT: All right. Mr. Karotkin.

MR. KAROTKIN: Just one statement, Your Honor, just to make sure the record's very clear. I think Mr. Zirinsky eluded to the fact that his client's Class III claims are being treated differently than other Class III claims. That is not the case. All disputed claims are treated the same way in Class III.

THE COURT: All right. What's our next issue, folks? Do I still have arguments vis-à-vis -- okay. Ms. Leary, are you coming up? That's fine. If the argument's vis-à-vis the role of Wilmington Trust, they're still being pressed by someone or anyone, I'll take brief argument on those after Ms. Leary's done.

MS. LEARY: Thank you, Your Honor. I thought jurisdiction was the easy one. And I will make a real effort to be very, very brief.

I think, going to 2(e) of your order, the release and exculpation issue, I think that's low hanging fruit. I think this is a drafting issue. If I can just take the Court through a couple of provisions.

The release and exculpation are set forth in the plan, Section 12.5 and 12.6.

THE COURT: Yeah, hang on a minute. I had pulled that at one point. Are you concerned about the part where the estate gives away its claims or the language in the exculpation which applies to third parties?

MS. LEARY: I think there needs to be some clarity in the plan, because there is no real identification of the subject matter of the releases, nor is there identification of the individuals being exculpated. There's sort of this very broad -- and I think what the Court did in Adelphia and DBSD and in Chemtura, was simply add language that says to the extent permitted by applicable law, to that provision.

In Chemtura, and I think the other cases, there was a question in the Court's mind about the enforceability of those. I don't know if that's a solution that the debtors can live with, but there's another drafting problem, which has to do with the plan very clearly setting forth the particular conduct to which the exculpation applies, which is as follows: Willful misconduct, gross negligence, bad faith, self-dealing, ultra vires act, fraud, malpractice, criminal conduct, unauthorized

use of confidential information, and breach of fiduciary duty.

Turning to the GUC Trust, however, there is not a mirror of those particular carve-outs from the exculpation, and I don't think that that was intentional, but I believe that the GUC Trust needs to do what the plan does. And that is, to -- what's missing is fraud, malpractice, criminal conduct, unauthorized use of confidential information, and breach of fiduciary duty.

Now, I'm referring specifically to that sort of string of items in 9.4 --

THE COURT: It runs on to page 73 of the plan?

MS. LEARY: I'm sorry, no. I'm moving to the GUC Trust now.

THE COURT: Oh, you're --

MS. LEARY: So --

THE COURT: But you're saying the GUC Trust needs language similar to what's on page 73 of the plan?

MS. LEARY: That is right. That is right. And, Your Honor, the reason that this is of concern is because Section 13.8 of the GUC Trust says, that the GUC Trust governs to the extent it is inconsistent with the plan on Section 6.2, which does govern -- I just think it's a drafting issue, and I will say no more. If there's a response, I'm happy to reply to it.

The section of the plan 10.7 looks an awful lot like a discharge injunction --

THE COURT: A pause, please, Ms. Leary.

MS. LEARY: Yeah.

THE COURT: Would you be okay with the exculpation, which as I read it, does enjoin third parties and not just the estate, if it had the limitations on it that appear at the top of 73 in terms of carving it back? I don't think that's what I ruled in Chemtura, but that's the question I'm asking you.

MS. LEARY: 73?

THE COURT: Well, in 73, you pointed out that this isn't a get out of jail free card for everything in the world --

MS. LEARY: Right.

THE COURT: -- it's a fairly limited exculpation, or at least it protects people unless they do stuff that's really bad. And my question is, are you asking me to strictly implement my rulings in Chemtura and its predecessor cases, or as long as it had that kind of really bad type of conduct provision in it like 73 seemingly has, that you'd be okay with it?

And if you're acting as a surrogate for others, I understand you can only speak for yourself.

MS. LEARY: That's right, Your Honor, and cognizant of the fact, and I want to reiterate our objective to have the plan confirmed, your proposal is fine to set forth, subject to California and Salina being okay with that, so.

THE COURT: All right. Can you pause for a second? Do I still have counsel for California on the line?

MS. KARLIN: Yes, you do. This is Olivia Karlin.

THE COURT: Do you want to weigh in on this, Ms. Karlin?

MS. KARLIN: We would agree with New York.

THE COURT: Okay. Salina I see out there in left field.

MR. LINDENMAN: Yes, we would agree.

THE COURT: Okay.

MS. LEARY: Your Honor, is that assuming that you would add the language to the extent permitted by law, applicable law? As you did in --

THE COURT: My tentative would be that way, but I haven't heard from your opponents yet.

MS. LEARY: Well, I would agree with your proposal if that language is added, to the extent permitted by applicable law, so that it's clear that parties can rely on this Court's analysis in this and other cases with respect to the releases and exculpations. I don't want to make a big deal out of this one at all, so.

THE COURT: Are you okay with yielding to Mr. Karotkin for a second?

MS. LEARY: Yes, of course.

MR. KAROTKIN: I'm not precisely sure what the

suggestion is. And I think that the language to the extent permitted by applicable law, as I recall, Your Honor, in your Chemtura decision, had to do with third party releases. There are no third party releases in this. The only related third party releases, as you mentioned in those decisions, is the exculpation provision. If you're -- if we're talking about adding it to that language --

THE COURT: Yeah. I thought we were talking about exculpation.

MR. KAROTKIN: All right. So we're not talking about 12.5, we're talking about 12.6?

THE COURT: I read 12.5 and I look to both of you of folks on this, and obviously you've had a very gentlemanly and womanly back and forth. I understood 12.5 to be releases by the debtors --

MR. KAROTKIN: Correct.

THE COURT: -- which are subject only to a best interest of the estate test, and which wouldn't particularly trouble me. And I'm not sure if anybody still has an objection to 12.5, but I may be wrong, and if so, somebody can correct me.

12.6 spills over to third party releases. Now, the way I read 12.6, the kinds of things that 12.6 protects the exculpated folks against, as I mentioned in my Chemtura decision, are almost entirely claims that are owned by the

estate and not by third parties.

But the language is broad enough to cover third parties, which is why I asked Ms. Leary those questions, which is in essence, her saying that even though what I said in Chemtura, she doesn't regard it as a big deal. And that's a paraphrase, but I think that's where we are.

But I thought that 12.6, exculpation, does protect creditors' committee, debtor, all the people who are listed, from a claim by somebody out in the hallway.

MR. KAROTKIN: Yes, it does.

THE COURT: And that's the legal issue I dealt with in Chemtura.

MR. KAROTKIN: Correct. And I'm not sure what the suggested fix is, that's all.

THE COURT: Well, I think what she was saying is, to the maximum extent permitted by law or words to that effect, and I've got to tell you that although I'm inclined to put in all the safeguards people want, as I did in Chemtura, and I'd hear creative suggestions for more protection, I've said a zillion times, I believe in predictability. I don't think I should be retreating from three published decisions I have in the area.

Now, as I understand it, and this is something I need your help on, Mr. Karotkin, but I understand that there's a self-correcting procedure, a mechanism at the end of the plan,

that says the plan is still confirmable, it's just modified to the extent I need -- I think it needs to be modified. But I'd like you to confirm that.

It's 12 -- no, excuse me.

MR. KAROTKIN: 12.12?

THE COURT: No, I think it was way near the end. Hang on a second.

MR. KAROTKIN: I think 12.12.

THE COURT: Yes, it is 12.12, I'm sorry.

MR. KAROTKIN: Yeah. That's fine. I --

THE COURT: Although you may have to ask.

MR. KAROTKIN: Pardon me?

THE COURT: At the request of the debtor's.

MR. KAROTKIN: Yes, we --

THE COURT: So if you're requesting me, when we're all done, if I otherwise find the plan confirmable, but I need to -- I think a term here or there needs to be tweaked, if you're asking me to confirm it anyway, you can tell me that at the end of the day.

MR. KAROTKIN: Okay. But I still have and maybe I'm being thick. I just don't understand the suggested fix to 12.6.

THE COURT: Well, I think the suggested fix by Ms. Leary, in practical effect, means you don't get those third party releases as part of the exculpation under my rulings in

Adelphia, DBSD and Chemtura.

MR. KAROTKIN: Okay. So is the fix just to add to the extent permitted by applicable law?

THE COURT: You can -- that's probably the easiest thing. Although I don't tell lawyers how to practice law, but I would suggest that you put in one or more provisions that say -- which I would be willing to approve, subject to others' rights to be heard, that before anybody wants to sue any of the protected parties on that, they've got to come to me to satisfy me that it belongs to them, and it doesn't already belong to the estate.

MR. KAROTKIN: The same language.

THE COURT: Because I think most of the kinds of things that would bug somebody in this situation would belong to the estate and not to an individual creditor.

MR. KAROTKIN: That same language you had in the Chemtura plan.

THE COURT: You may remember it better than I, but I think I did something like that there, yes.

MR. KAROTKIN: Okay. I understand.

THE COURT: Okay.

MS. LEARY: And we would find this Court's directive on coming here for clarification on the last thing that you said, whether the claim belongs to the third party or the estate, we are fine with that as well, Your Honor.

THE COURT: Okay. Salina, are you okay with that as well?

MR. LINDENMAN: I'm sorry, Your Honor?

THE COURT: Are you okay with what Ms. Leary just said?

MR. LINDENMAN: Yes.

THE COURT: Okay. California?

MS. KARLIN: California did not object to paragraph 12.6.

THE COURT: Oh, okay, fair enough. Do you want to continue then, Ms. Leary?

MS. LEARY: I just have a couple of other issues. That didn't take too much, but.

THE COURT: It isn't like I'm watching the clock. I just --

MS. LEARY: I am, Your Honor.

THE COURT: All right. Fair enough.

MS. LEARY: I have to leave, so the -- I'm going to go to 2(a), which is as the Court characterizes it, some GUC Trust issues.

Again, I think there's some fixes here, and the over-arching concern we had when we read the GUC Trust in the February 25th iteration was -- through the lack of some oversight and some protective measures, which I think in the next iteration or it may have been the one on the 25th, I got

more comfortable with that. And yet, I still think that there are issues, and they are as follows.

And I have to apologize, Your Honor, I was handed the new GUC Trust this morning, and I have not had an opportunity to review it. I am told by Ms. Macksoud of the creditors' committee that -- counsel, that the revisions to this version are primarily for tax purposes. They would not necessarily fix what is here, so I apologize if it did fix.

Here's a couple of things that we see as problematic. What the GUC Trust provides is for the retention of Wilmington Trust, I'll refer to it as WTC, AP Services --

THE COURT: No, refer -- indulge me. Acronyms drive me absolutely bananas.

MS. LEARY: Okay.

THE COURT: Unless you're talking about the UAW or the FCC, call it Wilmington Trust.

MS. LEARY: Okay. And AP Services.

THE COURT: All right.

MS. LEARY: Which I believe is AlixPartners.

THE COURT: Right. But I think they had some business reason for changing their name, so you can indulge them on that one, I know who they are.

MS. LEARY: Okay. I don't know what FTI stands for, I think it's Financial -- anybody know?

THE COURT: FTI Consulting is also a name that's

familiar enough to those in the bankruptcy community, so it's okay.

MS. LEARY: Okay. So our concern is that AP Services, I think has been operating the debtor for the last 18 months. I think that's a classic insider within the definition of insider. And so what I think might be required is a little bit more disclosure about the number of people within AP, the terms of compensation, and benefits, the affiliations, and a general statement of disinterestedness.

I don't see that. All I see in the plan and in the brief in support of the plan is a general statement that AP Services will continue to be retained by the GUC Trust, and I believe an abbreviated team or fewer people, there's an implication that there'll be fewer people.

I think it needs a little bit more in terms of making us feel comfortable that there's an entity here that can move into the GUC Trust operating role, and which is different than its role before this Court.

THE COURT: Ms. Leary, is this something that's a plan issue or is this something that anybody who cares, and I'm not sure how many people, frankly, would care, could resolve by picking up the phone?

MS. LEARY: You'd think. Perhaps. I mean, I don't know. I don't know the answer to that, Your Honor. I know that this is an overwhelming case for --

THE COURT: Okay. Well, your other points, as you can tell from the back and forth and the amount of time I spent on it, got my attention, but this one really doesn't.

MS. LEARY: Okay. Here's the bottom line for New York, we want some comfort level that we will be treated in a way that has some independence and some fairness to it. I am not suggesting that AP or any of the professionals that are going to move into the GUC Trust roles lack that.

What I am suggesting is that the GUC Trust does not necessarily provide a mechanism if that doesn't happen. And that's where I'm struggling with the GUC Trust. I'm struggling with it because there are things that will no longer be undertaken with this Court's oversight, the U.S. Trustee's oversight and so forth, the fee examiner's oversight. Those are the kinds of things that I feel, as a creditor, protected, the estate protected, unsecured creditors.

So I'm not suggesting that these parties cannot act in a way that is fully above board and so forth. What I'm suggesting is that the showing in 1129(a)(5) hasn't really been made. I don't think that that provision has been fulfilled. That doesn't mean that it can't be fulfilled. If this Court entered an order conditionally approving the plan, but requiring some additional showing, I think that would fully satisfy the state.

THE COURT: Uh-huh. Okay. Do you have other stuff?

MS. LEARY: One of the issues that New York and California raised was some concern about Wilmington Trust's roles pre and post petition, and Wilmington Trust has come in and stated that its prepetition role as indentured trustee is primarily ministerial. We don't view it that way. We think that they have a bit of discretion, including the right to assert claims against Delphi, discretionary issues with respect to distribution and allowance of claims.

You know, I think our papers set forth a question mark, rather than a line in the sand about Wilmington Trust, and it is something that I hope the Court will look at in terms of is there something more than can be provided to give a comfort level to unsecured creditors, that there is some real oversight here. This is not just more professionals being paid to dispute claims and so forth.

New York wants to be paid soon, and we are scrambling to do that because we have no dollars to devote to remedial obligations that involve this debtor. And my entire focus for the next several months is going to be to get us there. To the extent that I have a willing partner in AP Services, Wilmington Trust and so forth, I'm happy.

To the extent that I don't, if there are issues that I don't understand why we can't resolve them.

Here's an example. When New York filed its proofs of claim, there were essentially two aspects to the claim, many of

them. The first aspect was for past -- I'm sorry, prepetition response costs. These are quantifiable numbers, they were supported by affidavit, as well as documentary evidence. For whatever reason, we were a disputed claim, even though we feel that everything's there, tell us why this is not deemed allowed on the effective date, and we don't really have an answer to that.

It is what it is. The bottom line for New York, though, is that we can't wait years to get into some, you know, fourth, fifth, tenth distribution. We would have loved to have been in the first distribution, that looks like it's not necessarily going to happen.

And if I can -- and sort of moving into another issue we raised, another objection, it really does go to the question of whether there will be equal treatment. And here's the way I look at it, because I don't think this Court or the debtors or anybody in this room, or anybody in the world, can dictate what the GM stock is going to be worth.

But I envision a scenario whereby the General Motors' stock on the first distribution date is worth something, let's call it 35 cents or 35 cents on the dollar. And when that 23 billion -- 27 billion dollar stock distribution goes out into the market, the law of supply and demand indicates that the value attached to that stock is not the same after the first distribution, and it might be.

Now, the difficulty I think for the debtors is to try to assure and the committee, is how do you assure that subsequent distributions get paid the same amount. And I think there's every intention to do that. It's clear to me from the plan. The question is, is it really going to happen? And if it doesn't happen, will we know it, and if it doesn't happen, is there some remedy that the state or other unsecured creditors have to come back to the Court and say, we don't understand what happened here. They got 35 cents on the dollar and we got 15.

So there's a difference between distribution and the value of that distribution, and it's not that I want to assure getting 35 cents on the dollar, but I don't have the choice today that Wilmington Trust bondholders and others who are allowed have, which is, do I hold or do I sell, that discretion. And that's where the discrimination, I think, comes in. I don't have that ability today. And if you give it to me tomorrow on let's say the tenth distribution and it's worth ten cents of the dollar, does New York have to hold it at that point to make it get to 33 cents, to feel -- are we required to do that, or can we come back to the Court and say, this didn't work.

I don't think the GUC Trust has a mechanism for us to do that, and the reason it doesn't is because it doesn't compare apples to apples. It -- one share of stock today is

not valued at the same price as the stock -- as a share of stock tomorrow.

So what do you do about that? I think what you do is you require in a reporting context, the value that could have been, not that is, but that could've been realized on the date of distribution, the first day of distribution.

Go the second day. What is the value of that distribution to be realized, and do they match? Not what did you get, New York, or what did you get, Wilmington Trust bondholders, but let's look at what opportunity exists on the first distribution as compared with what exists on the second and subsequent distributions in terms of value.

That is what New York would like to see. We'd like to feel comfortable to have the next few months and not worry that the more the stock is traded and floods the market, and the lower it goes or whatever economic, we want an incentive as well to have our claim determined soon, early, not only to save Treasury money, but also to have in hand dollars that we can put into the ground for remedial purposes.

Because as I have said my theme today, New York has zero dollars, and I think this Court can take judicial notice of the fiscal constraints that the State of New York is under today, and I don't think anybody can dispute that.

So that's it. And if I can reserve some time for reply to the extent that there may be issues raised by

Mr. Karotkin or Mr. Smolinsky, I'd appreciate it, Your Honor.

THE COURT: Okay. Do I have somebody who wants to respond?

MR. SMOLINSKY: Your Honor, Joe Smolinsky. Let me see if I address all of the issues, if I can.

With respect to Wilmington Trust and the other professionals, I think that -- we won't take insult to the comments, but I think that Wilmington Trust is the party best served to do this work. They've been involved in the bonds, which represent 23 billion dollars' worth of the debt, since the inception. They're familiar with the distribution structure.

In terms of checks and balances, FTI will sit above as a monitor, so there are built-in protections to make sure that Wilmington Trust acts appropriately.

AlixPartners -- I mean, AlixPartners is in there, another checks and balance. They're very familiar with the claims. To bring in someone else now to do the claims reconciliation work, would be tremendously expensive, if it could be done at all.

With respect to the allowance of New York State's claims, I think we've evidenced, and the debtors have evidenced to the Court how much work we've put into the claims process. We have over 220 omnibus objections either resolved or on file. We've had numerous stipulations of large claims. We've had

estimation hearings on asbestos. We've -- if you look at our -- at the time records of Weil Gotshal and of AlixPartners, you'll see an incredible amount of time being spent on environmental matters since the very beginning of this case.

We've spent a lot of time with New York State; and what I find interesting is that there were -- if you remember, when we set up the ADR process, which has been very successful at resolving claims, all of the environmental claimants came in and said, Your Honor, not me, we shouldn't be a part of the ADR procedures, even though we were prepared to build in procedures to allow those claims to be resolved through ADR, such as bringing in special mediators that are knowledgeable on environmental matters.

But the environmental claimants didn't want to be part of that program, and you might have seen some objections to confirmation based on that issue. So without mediation ADR, it is a tiresome process, but we are engaged, we are going to continue to engage, and our efforts to resolve claims and the debtor's -- and the GUC Trust's efforts to resolve claims are not going to diminish. If anything, they will accelerate.

THE COURT: Before you move on, Mr. Smolinsky --

MR. SMOLINSKY: The last issue --

THE COURT: No, before you do.

MR. SMOLINSKY: Oh, yes.

THE COURT: On ADR, because at one time I had that.

How was that resolved? That you just shrugged your shoulders, and said anybody who doesn't want to do ADR doesn't have to do ADR?

MR. SMOLINSKY: No, Your Honor. We were requested at the time to carve out and exclude any environmental claim from the ADR procedures.

THE COURT: And you said okay to that?

MR. SMOLINSKY: Yes.

THE COURT: Yeah, that's what I meant.

MR. SMOLINSKY: The order exclusively carves out any environmental claims from being subject to the ADR program, although it does reserve the debtor's rights to seek to establish a new ADR program for environmental claims.

THE COURT: All right. At which time they could be heard in opposition, if they still don't want to do it.

MR. SMOLINSKY: That's correct, Your Honor.

THE COURT: Okay.

MR. SMOLINSKY: The last issue, which if I understand Ms. Leary correctly, she's suggesting that we don't do this plan, but we do another plan, where we determine at the time of any distribution what the value of the stock is, compare that to the size of the claim and distribute based on value, rather than number of shares.

Given the entire construct of this plan, that just isn't possible. That would mean that if in the unlikely event

that the value of New GM stock plummeted, that the estate would run -- would simply run out of shares in order to satisfy that party's claim.

That actually would create a disincentive to settle claims quickly, because a claimant, unless they were concerned about running out of shares, would get the same distribution whether claims are settled today, or tomorrow, or three years from now. We want people to settle claims, we want to settle claims, and despite the fact that it wasn't established for this purpose, the way that it's currently constructed, there is an incentive to resolve claims quickly so that you can get control as a claimant over your shares.

So the incentives are matched up, regardless of the fact that that wasn't the reason why it was set up that way.

THE COURT: Okay. Ms. Leary, based on -- oh, Mr. Mayer.

MS. LEARY: Your Honor, may I be heard?

THE COURT: Ms. Leary, I'll give you a chance to be heard, but I wonder if Mr. Mayer should be heard first.

MR. MAYER: Thank you, Your Honor. Just a couple of points. New York State has a disputed unsecured claim, the debtors have been dealing with it, the GUC Trust will continue to deal with it. And the personnel handling it, basically aren't changing very much. Wilmington Trust is coming in to be the trustee who will hold the assets, but AP Services continues

to effectively direct the affairs of what will be the successor to the estate.

There's no more conflict of interest here than there is any other situation that this Court sees every day of the week, where the same people stick around to do effectively the same jobs.

With respect to oversight, we have oversight galore, and as one of the few professionals that is not continuing on in this case, with the exception with a couple of very narrow exceptions, I was deeply involved in negotiated these. Sometimes to generating a fair amount of heat, perhaps not light, oversight.

FTI, which basically takes the place of the committee, is going to have oversight over Wilmington Trust. I don't recall New York State claiming that the committee was not representative, or not doing its job during this case. They have no basis for stating that the committee's financial advisor, which replaces the committee at some considerable savings to the estate, has any conflict of interest in its role.

But there's more. As Your Honor knows, every cash dollar that goes out the door to pay professionals, New York State talks about making sure professionals don't run wild. Well, the dollars are Treasury's dollars, and you have seen how tightly Treasury has negotiated the post effective date budget.

You know how hard it was to negotiate those numbers, and the document is replete with Treasury's budgetary controls over the expenditure of the cash.

So there is that control. But there is more. We have in this document a holdback, any professional goes over budget, there's a ten percent holdback, which can be liquidated only with the consent of this Court, and if New York State wants to come in and object, it has the ability to do so.

And finally, there is still more. If it turns out, and this is the only place where New York State could possibly be prejudiced, assuming that its claims are allowed, which I presume they will be to some extent, if you're in an allowance fight, you have an adversary, you don't have a partner, and every dollar that goes to New York State comes out of some other creditor's pocket.

Finally, if the trustee, if Wilmington Trust ends up having to sell stock to pay for professional expenses, it has to come to this Court first, over and above a five million dollar initial amount, the genesis of which is that the SEC has required some reporting, and that wasn't in Treasury's budget. So we needed to provide for five million dollars to cover that and associated costs.

But other than that, and mechanical items, such as selling warrants which are about to expire, Wilmington Trust has to come back to court to sell the assets that New York

State is concerned about before it can do so to pay expenses.

So there's tremendous amounts of oversight in this trust, and I can't see the point of requiring even more. Unless Your Honor has questions, I'll --

THE COURT: No. No, thank you. All right. Ms. Leary, do you have -- oh, forgive me.

MR. WILLIAMS: Your Honor, Matthew Williams, Gibson Dunn for Wilmington Trust.

Just a couple of things just to clear up the record. With respect to the Delphi bonds, although I don't think it would be a conflict, those are not Wilmington Trust's bonds. I just wanted to correct the record there.

And then with respect to anything else that's been raised, I'm happy to answer any questions, but I think everything is adequately dealt with.

THE COURT: Yeah, I read your brief. I'm okay.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: Thank you. All right. Ms. Leary.

MS. LEARY: I have neglected to indicate to the Court a portion of California and New York's objection that was withdrawn. And I apologize if I neglected to advise both the committee and the debtors, and it deals with the assertion that Wilmington Trust prepetition fees being paid administratively are -- is inappropriate.

Given the representation to us that the fees total

about 270,000 dollars, we are not going to continue to assert that. Having said that, Your Honor, the proffered reason that it would be acceptable to pay those fees, we want to represent clearly to the Court that we do not think that because it's standard practice in this district unless there's a decision that Your Honor has issued or another judge has issued in this district, directly on this point, we don't think because it's standard practice that it is a good enough reason.

THE COURT: Well, if you'd pressed the objection, I would've asked you whether my recent decision in Adelphia changes the terrain in that, but if you're not pushing the objection, I would just as soon not issue a precedent on something where I don't have to.

MS. LEARY: No. And I want to indicate Mr. Smolinsky represented yesterday a substantial contribution underlying those fees, and California and New York felt that it was not necessary to press.

Another issue that has -- it's in our brief, but it didn't occur to me to press it until Mr. Mayer raised it, really about the GUC Trust monitor, and whether it is, in fact, a monitor. And that's the issue I hope the Court looks at.

The bottom line is, Your Honor, whether I'm standing here as an objecting party or not, this Court is going to give a hard look particularly in the spirit of the Supreme Court's Espinosa case, to everything in this plan to see whether it is

consistent with the Code.

And sometimes things are --

THE COURT: Do you read Espinosa as saying that a bankruptcy judge has the duty to fly speck a 79-page single spaced plan? I mean, I'm properly respectful of the Supreme Court, but -- and I will do whatever the Supreme Court tells me that I have to do with sufficient clarity, of course, but how could a bankruptcy judge, especially in this district, with the paper that parties lay on him or her, ever live in an Espinosa world?

MS. LEARY: I knew I shouldn't have raised that case, Your Honor. I knew it the minute it came out of my mouth. The reason I raised it simply is because that's your -- whether Espinosa is past or not, that is I, in my view, how this Court has viewed plans in the past, particularly with respect to Chemtura and others. That's all I meant. You don't need Espinosa to do what you normally do.

THE COURT: When it's in my face and I see it, I don't close my eyes on it.

MS. LEARY: Right.

THE COURT: But I must confess to you that I focused on -- to the world, to the newspapers, to DebtWire, I focused on the objections to confirmation, and anything that is so noteworthy that it catches my attention. I can't rule out the possibility that in 79 single spaced pages on the plan alone or

any of its ancillary documents there's something in there that got by me.

MS. LEARY: Thank you, Your Honor.

THE COURT: Okay. Mr. Karotkin.

MR. KAROTKIN: I believe that's it, Your Honor. To which Mr. Smolinsky has to clarify, I don't believe there are any more objections.

THE COURT: Okay. Mr. Smolinsky, you can rise with that, and then I'll give a chance to anybody who is on the phone a chance to be heard, whose points raised pass muster under the standard I articulated in my February 24th order.

MR. SMOLINSKY: Your Honor, I just want to stand to identify two issues that the parties continue to work on, just so Your Honor could take them into consideration, in connection with your order. Both involve New GM.

The first is an amendment to the master sale and purchase agreement. You may recall that there's an additional two percent of New GM shares that are available, to the extent the claims exceed 35 billion dollars, but less than 42 billion. That's the cap. And the procedure that's in the master sale and purchase agreement requires that the debtors come back to court and have a hearing to estimate the amount of claims, which would require Your Honor to sit and decide at some point in time in the near future what the Nova Scotia claims are worth, and what the NUMMI claims are worth, and it becomes very

difficult and puts a tremendous burden on Your Honor.

So the parties are discussing a construct that would no longer require that kind of a hearing, and would permit distributions of additional shares to be based on true allowed claims.

The accountants are still discussing it, but you should expect, hopefully, to see something in the near future to address that issue.

The second issue, which perhaps is more immediate, because we'd like to get it inserted into the sale order, involves the treatment of the master of sale --

MR. UNIDENTIFIED: I think you mean confirmation.

MR. SMOLINSKY: Oh, I'm sorry, confirmation. What I'd say?

MR. UNIDENTIFIED: Been there/done that sale.

MR. SMOLINSKY: The other issue which is more immediate and will hopefully find its way in the confirmation order involves the treatment of the master sale and purchase agreement itself.

Because we're taking the debtor's ongoing activities and moving them into two separate trusts, there are benefits and obligations under the master sale and purchase agreement that are important to both surviving entities, as well as the post effective date debtor.

So we are trying to come up with language that would

allow the Environmental Response Trust to continue to have the benefits of that agreement, and the obligations to continue, for example, to lease property back to New GM, as the debtors have been doing, and at the same time, allow the GUC Trust to continue to utilize the benefits of the sale agreement in order to do its duties.

So we expect over the next few hours to have further conversations on that, but you won't see it, I don't think in the current version of the order that you're looking at.

I think that's it, Your Honor.

THE COURT: Okay. I'll say -- ask first the people in the courtroom. Is there anybody who filed a written objection who feels that he or she wants to be heard because the designated presenter of any argument didn't do a satisfactory job?

No response. Same question to those on the phone.

MS. KARLIN: This is California. New York did address the majority of our objections, but I would just add with regard to Wilmington Trust multiple roles, the possible prejudice to the creditors is heightened because the liability for the breach of fiduciary duties excluded from the carve-out in the indemnification privileges of the GUC Trust, I haven't hear that there was a new or revised GUC Trust provided to that, I haven't seen it.

If they're not excluded from the plan in Section

12.6, but the GUC Trust says that that governs in version 13.8 of the GUC Trust, so I would add that to Ms. Leary's objection.

THE COURT: Thank you for raising that. My memory is that Ms. Leary raised that issue. She said she thought it might just be a drafting bug or drafting issue. And can I ask whether there is an intentional distinction or -- and I think she asked whether the specification of the particular bad acts that was in the plan might also be put into the GUC Trust document, unless I misunderstood her point.

MR. WILLIAMS: Your Honor, Matthew Williams, Gibson, Dunn. At least from that --

THE COURT: Can you pull the mic closer to you, please, Mr. Williams.

MR. WILLIAMS: I'm sorry, Matthew Williams of Gibson, Dunn.

At least from the proposed GUC Trust administrator's point of view, we'd be happy to mirror the two provisions, so the GUC Trust would have similar release and exculpation language.

THE COURT: Anybody have a different view than Mr. Williams just articulated?

Okay. Then I'm going to consider that issue satisfactorily resolved.

Okay. Anything else? Anybody? Mr. Karotkin?

MR. KAROTKIN: I think, Your Honor, I think you said

at the end of the hearing whether we would have any objection to you exercising the rights under Section 12.12 with respect to exercising certain provisions of the plan, and we have no objection to it.

THE COURT: All right. Ladies and gentlemen, give -- oh, Mr. Jones.

MR. JONES: I'm sorry, Your Honor. Excuse me. I just want to make one housekeeping or ministerial note.

Your Honor had regarding the approval of the environmental settlements previously ruled on, Your Honor had referenced possibly the submission of an independent order on those. I just wanted to let the Court know we anticipate if the plan is confirmed, that the confirmation and order itself will include the appropriate findings and holdings embodying Your Honor's rulings. Thank you.

THE COURT: All right. Under those circumstances, and with Mr. Karotkin having confirmed that the plan is self-correcting, I can tell you based upon my review of the papers and the oral argument I've heard today, that this plan will be confirmed. The issue is the extent to which I might require provisions to be modified in any way.

I will have a written decision on that, some of these issues warranting written attention as soon as possible. We're adjourned.

MR. SMOLINSKY: Thank you, Your Honor. Your Honor,

we do have some other motions, two other motions on the calendar.

THE COURT: All right. Anybody who is here strictly on what we've dealt with so far is free to leave, and then I'll hear from Mr. Smolinsky.

(Pause)

THE COURT: Mr. Smolinsky, whenever you're ready.

MR. SMOLINSKY: Thank you, Your Honor. Before we get to the two motions, I just want to mention that we have two stipulations with the United States Government. One with regard to the EPA claims that they've filed, and one with respect to the U.S. Treasury DIP, Debtor-in-Possession financing claims.

There are numerous claims. We've consolidated them down into one, and those stipulations are needed in order to go effective on the plan. So if it's okay with Your Honor, we'd just like to submit those in connection with confirmation.

THE COURT: Sure. Provide them to Ms. Blum (ph), who I imagine at this hour will still be here.

MR. SMOLINSKY: We will, Your Honor.

The first motion on the calendar is a motion seeking to enlarge the time within to remove actions, consistent with Bankruptcy Rules 9006(b) and 9027.

Your Honor, part of the ADR procedure, this is an unusual case, in that there are so many claims that are subject

to potential removal. But consistent with the ADR procedures, as we go forward in the post confirmation world, hopefully we need an extension of time in which to remove actions, so that if the mediation is unsuccessful, we can then seek to remove those actions to federal court.

THE COURT: Which is to put these cases in the Southern District of New York before a district judge, hearing car wreck cases?

MR. SMOLINSKY: Well, under the Code, it's either the district court where the case is pending or the Southern District of New York.

THE COURT: Uh-huh.

MR. SMOLINSKY: Whether or not we would come up with some way of dealing with them in the Southern District of New York on a consolidated basis, we haven't really thought about. We've only removed one case recently and that's the Chun Lee (ph), Chun Sang Lee (ph) case. But as we go forward, so we're seeking at this point, the one year extension, and if we need to come back, we reserve the right to come back once again.

THE COURT: I'm not aware of there being any objection, are there?

MR. SMOLINSKY: There are no objections, Your Honor.

THE COURT: All right. The cause has plainly been shown for this request and it's granted.

MR. SMOLINSKY: Thank you, Your Honor. The last

motion is a motion to assume or assign a contract subject to the occurrence of the effective date to the Environmental Response Trust.

We only have two changes to the schedule of contracts to be assumed and assigned; one is an easement and access agreement with Lear Case Simpson (ph), and an easement and access agreement with Red Oak Holdings. We will notify them by writing that we have excised them from the schedule and contracts to be assigned and assigned. And other than that, there are no objections to this motion.

THE COURT: Very well. It's approved.

MR. SMOLINSKY: Thank you, Your Honor.

THE COURT: Does that take care of all of our business for today?

MR. SMOLINSKY: That does, Your Honor.

THE COURT: All right. We're adjourned, thank you.

MR. SMOLINSKY: Thank you.

(Whereupon these proceedings were concluded at 3:04 p.m.)

I N D E X

R U L I N G S

C E R T I F I C A T I O N

I, Aliza Chodoff, certify that the foregoing transcript is a true and accurate record of the proceedings.

Aliza Chodoff

Digitally signed by Aliza Chodoff
DN: cn=Aliza Chodoff, c=US, o=Veritext
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Date: 2011.03.04 15:17:53 -05'00'

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ALIZA CHODOFF

Veritext

200 Old Country Road

Suite 580

Mineola, NY 11501

Date: March 4, 2011